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PROCEEDINGS

OF THE

Joint Committee on the Judiciary

OF THE

SENATE AND ASSEMBLY

In the Matter of the Investigation
Demanded by
HONORABLE DANIEL F. COHALAN
a Justice of the Supreme Court of the State of New York, in and for the First Judicial District

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PROCEEDINGS.

ALBANY, N. Y., *June* 25, 1913

In the Matter of the Investigation by the Joint Committee on the Judiciary of the Senate and Assembly of the State of New York, into the charges preferred by John A. Connolly against Honorable Daniel F. Cohalan, a Justice of the Supreme Court of the State of New York, in and for the First Judicial District.

For the Senate:

Hon. John F. Murtaugh, *Chairman,*
Hon. James D. McCelland,
Hon. Henry W. Pollock,
Hon. Anthony J. Griffin,
Hon. Herman A. Torborg,
Hon. George A. Blauvelt,
Hon. James A. Foley,
Hon. Henry P. Velte,
Hon. Herbert P. Coats,
Hon. Ralph W. Thomas,
Hon. J. Henry Walters,
Hon. Thomas H. Bussey,
Hon. Robert F. Wagner,
Hon. Elon R. Brown,
Hon. William B. Carswell.

For the Assembly:

Hon. Aaron J. Levy, ex officio,
Hon. Mark Goldberg,
Hon. Peter P. McElligott,
Hon. Edward Weil,
Hon. Louis A. Cuvillier,
Hon. Patrick J. McMahon,
Hon. Charles D. Donohue,
Hon. Louis D. Gibbs,
Hon. Vincent A. O'Connor,
Hon. Mortimer C. O'Brien,
Hon. Cyrus W. Phillips,
Hon. John Leo Sullivan,
Hon. Charles J. Vert,
Hon. Michael Schaap.

STATE OF NEW YORK — EXECUTIVE CHAMBER,

ALBANY, *June* 25, 1913.

To the Legislature:

On June 5, 1913, the Grievance Committee, of the Association of the Bar of the City of New York, announced that it had been requested to investigate certain charges made against Honorable Daniel F. Cohalan, a Justice of the Supreme Court, of the State of New York, in and for the First Judicial District; and by a communication in writing, addressed to said Justice Cohalan, invited him or his attorney to confer with the counsel for said Committee.

Mr. Justice Cohalan, on July 12, 1913, advised such Committee that, in his opinion, it had no jurisdiction over the subject matter, and that he intended to present the matter to me, as the Governor of the State; and, thereafter, the said Justice addressed a communication to me, as follows:

> "Charges have recently appeared in the public press of this city emanating from one John A. Connolly, reflecting upon my conduct in my professional relations to him.
>
> "If you deem it proper and compatible with the public interest, I ask that you direct the attention of the legislature about to convene in extraordinary session, to these charges for such action as it may deem proper, since in view of my judicial position, the legislature is the only body having jurisdiction to investigate and act in the premises."

I thereupon requested said Grievance Committee of the Association of the Bar, to file with me, any and all exhibits and facts in its possession, together with their report, recommendation and conclusion, regarding the same, and upon their receipt I advised said Committee I would take further action in the premises.

On June 25, 1913, I received a report in writing, with exhibits thereto annexed, from the said Committee on Grievance, of the Association of the Bar, of the city of New York, respecting this matter, and I considered it proper that the same be immediately transmitted to this Legislature for appropriate action in the premises.

Accordingly, I herewith transmit to this Legislature, and as part of this message, at this time, copies of the said report of the said Grievance Committee, together with said exhibits, and

respectfully suggest that pursuant to article VI, section 11 of the Constitution, and the other provisions of law that may be applicable thereto, the same receive the immediate attention of this Legislature, and that a thorough and exhaustive investigation and examination be made and the true facts ascertained; that fair and full opportunity for their presentation be given all the parties interested, including the representatives of the Bar Association of the city of New York, and that after such examination and hearing, in accordance with the Constitution and the laws of the State of New York, this Legislature take such action in the premises as shall be deemed wise, proper and expedient.

(Signed) WM. SULZER.

In the Matter of the charges preferred against DANIEL F. COHALAN, a Justice of the Supreme Court of the State of New York, by JOHN A. CONNOLLY.

The Committee on Grievances of the Association of the Bar of the City of New York respectfully reports as follows:

That prior to June 5, 1913, the attention of this Committee was called to certain affidavits and other documents in which the facts hereinafter found were, among other things, alleged.

On June 5, 1913, this Committee, by its Chairman, notified the Honorable Daniel F. Cohalan that it was about to investigate certain charges made against him, and requested that he, or his counsel, communicate with the attorney for this Committee in regard thereto. On June 12, 1913, the Chairman of this Committee received from the Honorable Daniel F. Cohalan a reply to the said letter, in which, among other things, the writer stated that this Association had no jurisdiction over the subject-matter of said charges, and that he was about to present the subject to the Governor of the State for such action as might be proper at the Special Session of the Legislature to be held on June 18, 1913, and that therefore the writer assumed that this Committee would not care to proceed.

On June 13, 1913, the Committee received a letter from the Governor of the State of New York calling its attention to the fact that the Honorable Daniel F. Cohalan had asked him to direct the attention of the Legislature to the charges referred to for the reason that in Justice Cohalan's view the Legislature was the only body having jurisdiction over the matter by reason of his

judicial position. The said letter received by the Committee from the Governor requested this Committee to file with him any and all exhibits and facts in its possession concerning the matters in question, together with its report, recommendation and conclusion regarding the same.

On June 16, 1913, this Committee caused to be delivered to the Honorable Daniel F. Cohalan a letter calling his attention to the request of the Governor, above referred to, and notifying him that in pursuance of that request the Committee would meet at No. 39 West 43d street, borough of Manhattan, New York City, on June 18, 1913, at 2 P. M. for the purpose of investigating certain matters contained in the affidavits and documents called to the attention of the Committee as aforesaid, which matters were more particularly and at length set forth in said letter, a copy of which is hereto annexed marked "Exhibit A."

On June 18, 1913, the Committee received a letter from the Honorable Daniel F. Cohalan acknowledging receipt of the Committee's letter of June 16, 1913, and stating that he would not be present, or be represented by counsel, at the hearing to be held by this Committee on that day. A copy of this letter is hereto annexed marked "Exhibit B."

On June 18, 1913, this Committee, in accordance with the communication sent to the Honorable Daniel F. Cohalan as aforesaid proceeded with the investigation, and the same was continued by said Committee on the 21st and 23d days of June, 1913.

Mr. Nathan Ottinger, one of the members of the Committee, was, upon his request, excused from taking part in said investigation because he had been a candidate for election to the office of Justice of the Supreme Court in opposition to the said Daniel F. Cohalan at the time that said Daniel F. Cohalan was elected to the said office. All the other members of the Committee (except Mr. Gherardi Davis, who was excused by reason of absence from town) have taken part in the investigation, and this is their unanimous report.

That as a result of said investigation the Committee finds that there is evidence *prima facie* sustaining the following statement and the Committee has been unable to obtain any evidence to the contrary thereof.

1. That Daniel F. Cohalan was duly admitted to practice as an attorney and counselor-at-law in the State of New York in May, 1888. He practiced his profession in the borough of Manhattan,

City of New York, until May, 1911, when he was appointed Justice of the Supreme Court of the State of New York to fill a vacancy created by the resignation of Honorable James A. O'Gorman. The said Justice Cohalan was duly elected a Justice of said Supreme Court for a full term of fourteen years at the election held in November, 1911, and took office pursuant to said election on January 1, 1912. He has acted as such justice from the time of his said appointment. His term of office will expire December 31, 1925. He was elected a member of the Association of the Bar of the City of New York in the year 1894, and has been a member thereof ever since.

2. In the year 1900 the Victor Heating Company was duly incorporated pursuant to the laws of the State of New York, and thereafter did business in the borough of Manhattan, City of New York, consisting principally of installing and repairing heating and ventilating plants, boilers and other machinery. The said company had its office and place of business, consisting of one floor and basement, in the premises number 2295 Broadway, in the borough of Manhattan, City of New York, during the years 1903, 1904, 1905 and 1906, and one John A. Connolly was the president and a director of said company during that period. One George O'Hanlon was a director and secretary of the said company from the date of its incorporation to some time in the month of September, 1904. He also was treasurer of the company from February, 1901, to September, 1904. One J. Bennett Southard was elected a director of the company in 1901, and remained a director until some time subsequent to the year 1906. The said John A. Connolly purchased the interest in said company formerly held by George O'Hanlon in the month of September, 1904, and thereafter became the principal stockholder of and controlled the said company. The capital stock of said company was $10,000, divided into one hundred shares of $100 each. The cash capital paid into the company by its stockholders was the sum of $4,400.

3. The said John A. Connolly knew Mr. Cohalan and his family for many years prior to November, 1903, and he and said John A. Connolly were at that time intimate friends.

4. Said Daniel F. Cohalan had been active in the Democratic party and in the organization known as Tammany Hall in the City of New York for a long time prior to November, 1903, and at that time he was well known as a person who had influence over

members of that organization and over such of them as might hold public office in said city.

5. The political party of which Daniel F. Cohalan was a member had been successful in the election held in November, 1903, and the persons elected to office at that election entered upon their official duties on January 1, 1904.

6. The said John A. Connolly called upon Daniel F. Cohalan some time in November or December, 1903, and requested him to use his influence for the purpose of securing from the officials of the city who were to enter upon their duties on January 1, 1904, orders for work to be done by the Victor Heating Company.

7. Daniel F. Cohalan in November or December, 1903, offered to said John A. Connolly to use his influence with and thereby obtain orders from city officials for work to be done and materials to be furnished by the said Victor Heating Company, provided he received one-half the stock of the said company as a consideration therefor. This proposition was refused by the company, but thereafter it was agreed between Daniel F. Cohalan and the said company that he would use his influence with the president of the borough of Manhattan for the purpose of obtaining for the said company orders from city officials for work to be done and material to be furnished by it, and that in consideration of Daniel F. Cohalan's use of his said influence for that purpose he was to receive fifty-five per cent. of the net profits earned by the said company upon said orders.

8. That pursuant to the agreement referred to in paragraph 7 hereof, and in the month of February, 1904, Daniel F. Cohalan did use his influence with the president of the borough of Manhattan, or with some other person or persons connected with said department, and thereafter such orders for work, labor and services to be performed and material to be furnished were issued to the said Victor Heating Company.

9. The Victor Heating Company had not received any orders for work, labor and services to be performed or for materials to be furnished, by it from the said borough president or from his predecessor in office or from the Bureau of Public Buildings and Offices prior to the time that Daniel F. Cohalan used his influence as aforesaid.

10. That in the month of May, 1904, Daniel F. Cohalan offered to the said John A. Connolly and to the said Victor Heating Company to use his influence with and thereby procure from, the

Department of Water Supply, Gas and Electricity of the City of New York and from the Commissioner of said Department, or from other persons connected therewith, orders for work, labor and services to be performed and for materials to be furnished by the said Victor Heating Company, provided the said company would pay to him in consideration thereof 55 per cent. of the net profits earned by the said company upon said orders, and on the further condition that the said company would pay the further sum of 10 per cent. of the gross amount of said orders to be obtained as aforesaid, which sum was to be paid as an additional inducement for procuring the said orders.

11. The said John A. Connolly, in behalf of the Victor Heating Company, accepted the offer of said Cohalan upon the terms set forth in the preceding paragraph, and said Cohalan thereafter did use his influence with the Commissioner of Water Supply, Gas and Electricity, and with other persons connected with the said Department, and did procure for the Victor Heating Company, by reason of his said influence, orders for work, labor and services to be performed and materials to be furnished by it.

12. Prior thereto the Victor Heating Company had not received any orders for work, labor or services to be performed, or for materials to be furnished, by it from the Commissioner of Water Supply, Gas and Electricity, or from his predecessor in office, or from any other person in said department.

13. The Victor Heating Company, shortly after entering into the arrangement with said Cohalan heretofore referred to, received from the Department of Water Supply, Gas and Electricity an order to perform certain work, labor and services and furnish certain materials in and about a certain pumping station known as the 179th Street Pumping Station in the City of New York.

14. That for some time prior to the receipt of said order, work similar to that called for therein had been done in and about said pumping station, and materials similar to those required to be furnished by the said order had been furnished to the said pumping station by the George F. Blake Company and the Worthington Pump Company, both of which companies were then well known as reliable and competent in the class of work referred to in said orders, and they had properly performed the work, labor and services and furnished the materials, and were properly performing the work, labor and services and furnishing the materials, as ordered.

15. That no reason existed, or was offered, for discontinuing the

services of the said companies heretofore named, and the employment of the Victor Heating Company in their place, other than the fact that said Cohalan had used his influence and thereby induced the Commissioner of Water Supply, Gas and Electricity, or some other authorized person connected with the said department, to make the change.

16. Between the 1st day of April, 1904, and the 31st day of December, 1905, pursuant to the foregoing agreement, the Victor Heating Company received orders for work, labor and services to be performed and materials to be furnished from the office of the President of the borough of Manhattan and the Bureau of Public Buildings and Offices aggregating the sum of $11,302.22.

17. Between the 1st day of May, 1904, and the 31st day of December, 1905, pursuant to the foregoing arrangement, the said Victor Heating Company received from the Department of Water Supply, Gas and Electricity orders for work, labor and services to be performed and materials to be furnished aggregating the sum of $37,552.59.

18. The payments received from the City of New York by the Victor Heating Company for work done and materials furnished on orders received pursuant to the foregoing arrangement aggregate the sum of $48,864.81.

19. That in the early part of 1906 said John A. Connolly caused to be prepared a statement showing the profits made by the Victor Heating Company upon the orders previously received by said company in pursuance of the foregoing arrangement, and delivered a copy of the said statement to said Cohalan at or about the time that the same was prepared.

20. That on or about October 29, 1904, John A. Connolly paid to said Cohalan the sum of $500 in cash. That on or about the 6th day of December, 1904, John A. Connolly paid to said Cohalan the further sum of $200 in cash. That on or about the 20th day of January, 1905, John A. Connolly paid to said Cohalan the further sum of $185 in cash. That on or about January 23, 1905, John A. Connolly paid to said Cohalan the further sum of $55.55 in cash. That on or about May 22, 1905, John A. Connolly paid to said Cohalan the further sum of $1,000 in cash. That on or about August 2, 1905, John A. Connolly paid to said Cohalan the further sum of $1,000 in cash. That on September 17, 1906, John A. Connolly paid said Cohalan the further sum of $500 in cash, and on November 10, 1906, a further sum of $500 in cash. That said sums aggregated the sum of $3,940.55.

21. With the exception of the sum of $55.55 paid to him on or

about January 23, 1906, the various sums paid to said Cohalan as set forth in the preceding paragraph were paid in pursuance of the agreement previously entered into between said Cohalan and said Connolly to the effect that said Cohalan was to receive 55 per cent. of the net profits made by the Victor Heating Company upon orders received by the company, which orders had been received through the influence of said Cohalan from the office of the President of the Borough of Manhattan or the Bureau of Buildings and Supplies or from the Department of Water Supply, Gas and Electricity of the City of New York.

22. The first payment made to the said Victor Heating Company by the City of New York for work, labor and services to be performed and materials to be furnished, pursuant to an order given by the Department of Water Supply, Gas and Electricity was made on or about January 20, 1905, and amounted to the sum of $555.57.

23. On the 23d day of January, 1905, John A. Connolly paid to said Cohalan the sum of $55.55, being the 10 per cent. of the gross amount collected from the City of New York to be paid as an additional inducement, as set forth in paragraph ten hereof.

24. The said John A. Connolly stated to said Cohalan at the time said payment of $55.55 was made and accepted, that the same was paid in accordance with the agreement made in May, 1904, to the effect that 10 per cent. of the moneys collected from the city on orders received from the Department of Water Supply, Gas and Electricity, were to be paid to some unknown person.

25. Said Cohalan subsequently informed said John A. Connolly that the arrangement previously made in regard to the payment of 10 per cent. of the gross amount collected upon orders received from the said Department of Water Supply, Gas and Electricity would not be carried out and the sum of $55.55 paid as alleged in paragraph 23 hereof was thereupon charged on account of the moneys due to said Cohalan pursuant to the arrangement whereby he was to receive 55 per cent. of the net profits made by the Victor Heating Company upon the orders which were received by it from the various departments of the City of New York by reason of his influence.

26. The Victor Heating Company in January, 1909, made a demand upon said Cohalan for the return to it of the moneys aggregating $3,940.55, which had been paid to him, as hereinbefore set forth. The demand was not complied with, and the company then placed the claim in the hands of Alfred B. Craikshank, an attorney, for collection.

27. The said Alfred B. Cruikshank, acting as attorney for the Victor Heating Company, thereafter demanded repayment of the said sum of $3,940.55 from said Cohalan, who thereupon refused to pay the same.

28. An action was then instituted in the Supreme Court, New York county, in behalf of the Victor Heating Company, against said Cohalan to recover the said sum of $3,940.55 with interest. The verified complaint in said action which was served upon said Cohalan contained allegations which in substance stated that the said amount was due to the plaintiff for moneys had and received by the defendant, and said complaint also contained allegations as to the circumstances under which the said moneys were had and received.

29. Negotiations were entered into between said Cohalan and the attorney for plaintiff in said action looking toward a settlement of the claim set forth in the complaint therein. Said Cohalan first offered to pay $1,000, and subsequently $1,500, to the plaintiff in settlement, which offers were refused, and he finally agreed to return, and did return, the entire sum claimed, to wit, the sum of $3,940.55, without interest, and said sum was paid to the attorneys for the plaintiff in said action on May 27, 1909.

30. Said Cohalan prior to his agreement to pay the said sum of $3,940.55 insisted and required as part of the terms of the settlement, that the original verified complaint in said action should be destroyed, together with all evidence of the transactions between said Cohalan and the Victor Heating Company or its representatives, hereinabove referred to, and further, insisted and required that an amended complaint be prepared, verified and served upon him in said action, in which it should be alleged that the moneys claimed to be due had been previously loaned to the said Cohalan by the plaintiff therein.

31. A verified amended complaint, in accordance with said requirement, was prepared and served on the respondent on May 27, 1909, and at the same time the original complaint in said action was destroyed by the attorney for the plaintiff, and thereupon said Cohalan paid to the attorney for the plaintiff the sum of $3,940.55 in cash.

32. The said Alfred B. Cruikshank, who had personal charge of said action in behalf of the plaintiff, having agreed with said Cohalan to cause to be destroyed the evidence in regard to the transactions hereinabove referred to, did, within a short time

after the settlement of said action, destroy and cancel, or cause to be destroyed and canceled, what he believed to be all the evidence of said transactions.

33. The said John A. Connolly and the said Cohalan had been intimate friends for many years prior to 1904, but by reason of the commencement of the action referred to in the preceding paragraph, said friendship ceased and was terminated at or prior to the time that the said sum of $3,940.55 was paid to the plaintiff therein.

34. Connolly for some time prior to April, 1911, was in financial difficulties and was desirous of obtaining the aid of said Cohalan in securing an appointment to some public office, and in order to obtain such aid the said Connolly desired to re-establish the friendship which had formerly existed between them.

35. Thereupon the said Connolly called upon said Cohalan and asked for his aid and assistance. Said Cohalan thereupon informed said Connolly, in substance, that before he could secure such aid and assistance, said Connolly would have to execute and deliver to said Cohalan his promissory note for $4,000 and an estoppel affidavit, the contents of which are hereafter more particularly set forth, and said Cohalan agreed that if such note and affidavit were delivered to him he would aid said Connolly to obtain an appointment to some public office as requested.

36. The said John A. Connolly thereafter and on the 5th day of April, 1911, and without having received any other consideration whatsoever than the promise of the aid and assistance of said Cohalan as hereinabove stated, executed and caused to be delivered to said Cohalan the said promissory note for $4,000, payable four months after date, and also an affidavit of which the following is a copy:

"City and County of New York, *ss.:*

JOHN A. CONNOLLY, being duly sworn, says:

That he is the maker of a note for Four Thousand Dollars ($4000), dated this 5th day of April, 1911, to the order of Daniel F. Cohalan, and that there are no defenses thereto and no counterclaims or offsets against the same.

JOHN A. CONNOLLY.

Sworn to before me this
5th day of April, 1911.

ELLEN DROHEN,
Notary Public,
New York County."

37. The said affidavit at the time that the said John A. Connolly verified the same, contained at the end thereof the words "to the knowledge of deponent." When the attorney for the said John A. Connolly called and delivered to him the said affidavit, said Cohalan objected to the words above quoted and insisted that they be stricken from the affidavit, which was accordingly done in the presence of said Cohalan by the counsel for the said John A. Connolly, but in Connolly's absence and without his knowledge or authority.

38. In the month of May, 1913, Lyman E. Warren, acting as attorney for the said John A. Connolly, sent to Justice Cohalan a letter, of which the following is a copy:

"New York, *May* 19, 1913.

Hon. Daniel F. Cohalan.

My Dear Judge.— I have been consulted by Mr. John A. Connolly in regard to a promissory note made by him and delivered to you in April, 1911, said note bearing date April 5, 1911, for $4,000, and accompanied by an estoppel affidavit. His statement to me being that said note was given by him upon your express promise to procure him a position, which you have failed to do, although more than two years have now elapsed.

He states to me this note was given you after you had had some differences arising with the conduct of the Victor Heating Company, which had been theretofore adjusted.

If this statement is correct, I have advised him that he has the right to receive back this note, it being an obligation which might be enforced against him, and he has requested me to bring suit for the surrender and cancellation of this paper, but as experience has taught me there is always two sides to most controversies I declined to bring an action until I had requested a return of the document, and hence this letter is sent you requesting the return of the same, with the estoppel affidavit accompanying it. I am leaving for the Court of Appeals in the morning and shall return on Wednesday, at which time I trust I may have a reply to this communication.

The note and affidavit can be delivered at my office. Unless I hear from you on or before Thursday a. m., I shall treat your silence as a refusal, and I am instructed by Mr. Connolly to bring an action for its recovery. Trusting this unpleasant duty may be obviated either by a delivery of the

paper to me as his attorney or that I may be convinced his statement as to its procurement or delivery is incorrect, I beg to remain,

Very respectfully,
LYMAN E. WARREN."

39. Thereafter and on the 22d day of May, 1913, in response to the demand contained in said letter, Justice Cohalan returned to the said Warren the promissory note and original affidavit above referred to.

40. In the latter part of May, 1913, a newspaper published in the City of New York printed, in substance, the facts hereinabove set forth, and thereafter and on the 31st day of May, 1913, Justice Cohalan prepared and caused to be delivered to representatives of the various newspapers in the City of New York a statement by way of an answer or explanation in reference to said newspaper articles and the facts therein alleged. Said statement was published in the columns of the various newspapers of this city on the 1st day of June, 1913, and a copy thereof is attached hereto.

41. This statement was untrue and misleading.

42. The said John A. Connolly at no time since the said Cohalan acted as attorney for him in the matters referred to in the said statement hereto attached as set forth in paragraph 40 hereof authorized or directed Justice Cohalan to make any statement in regard to, or to disclose any facts learned by the said Cohalan while acting as such attorney, and all reference to said matters in said statement were made without the consent of said John A. Connolly or of anybody acting in his behalf.

The foregoing findings are based upon the statement of Justice Daniel F. Cohalan given to the public press on May 31, 1913; upon the testimony of John A. Connolly, Robert O. Scallon, Charles G. Wiley, Albert B. Cruikshank, Edward L. Blackman and J. Bennett Southard; and upon the letters, books and other documents produced before the Committee.

Dated, June 24, 1913.

Respectfully submitted,
HOWARD TOWNSEND,
Chairman.
EINAR CHRYSTIE,
Secretary.

EXHIBIT A

ASSOCIATION OF THE BAR
of the City of New York

Office of the Attorney for The Committee on Grievances, 39 West 43d Street. Einar Chrystie, *Attorney.*

June 16, 1913.

Honorable Daniel F. Cohalan, *New York City.*

Sir.— Referring to the communication of the Chairman of the Committee on Grievances to you of the 5th instant and your reply thereto of the 12th instant, we beg to inform you that we have received a communication from the Governor under date of the 13th instant in which he quotes in full your letter to him of June 12, 1913, and requests that the Committee on Grievances file with him any and all exhibits and facts that it might have in its possession concerning this matter together with its report, recommendation and conclusion regarding the same. In pursuance of that request, the Committee on Grievances will meet at 39 West 43d street, borough of Manhattan, City of New York, on Wednesday, June 18, 1913, at 2 o'clock p. m. for the purpose of investigating the matters hereinafter set forth and to determine what, if any, action should be taken by reason thereof. I have been directed to invite you to be present at such investigation, and to notify you that you may appear personally and by counsel, cross-examine any witnesses appearing in support of the allegations before the Committee and offer in evidence any answer thereto which you may deem it advisable.

Certain affidavits and other documents have been called to the attention of the Committee on Grievances in which the following allegations are, in substance, contained:

That in the year 1904 you entered into an agreement with one John A. Connolly, who was president of and acting in behalf of the Victor Heating Company, whereby it was provided that you were to use your influence and were to obtain by reason of said influence from certain officials of the city, orders for work, labor and services to be performed by the said Victor Heating Company, and whereby it was further provided that in consideration of your obtaining such orders you were to receive fifty-five per cent. of the profits earned by said company pursuant to the orders so obtained by your influence as aforesaid,

That during the years 1904, 1905 and 1906 you received from the said John A. Connolly various sums of money, in all aggregating $3,940.55.

That the said sums of money aggregating the sum of $3,940.55 were paid to you in accordance with the agreement hereinabove referred to and represented fifty-five per cent. of the profits which the Victor Heating Company made upon the orders received by said company from the city officials of the City of New York through your influence as aforesaid.

That some time in the year 1909 the Victor Heating Company, by John A. Connolly, and also through its attorney, Albert B. Cruikshank, demanded the return of the said moneys paid to you aggregating $3,940.55, and that you refused to return said money, or any part thereof, and stated that you owed the Victor Heating Company nothing and could not understand such demand.

That thereafter an action was begun in the Supreme Court, New York County, in which the said Victor Heating Company was the plaintiff and you were the defendant, demanding judgment for the said sum of $3,940.55, with interest, and a verified complaint in said action was served upon you alleging, in substance, that said amount was due for moneys had and received from said company by you.

That thereafter negotiations were entered into between you and the representatives of the Victor Heating Company looking toward the settlement of the claim made against you in said action. That in the course of said negotiations you at first offered to pay the sum of $1,500 and finally agreed to return the said sum of $3,940.55 without interest and did pay said amount to the attorneys for the plaintiff in the aforesaid action on May 27, 1909.

That prior to the time that you agreed to return said sum of $3,940.55 you insisted and required as a part of the terms of said settlement that the original complaint in the action which had been brought against you as aforesaid should be destroyed and that a verified amended complaint should be prepared and served upon you, in which amended complaint it was alleged that the said moneys aggregating $3,940.55 had been previously loaned to you by the plaintiff in the said action. That said verified amended complaint was duly served upon you on May 27, 1909, and immediately thereafter you paid over the money as aforesaid.

That you also, in the course of said negotiations looking toward

a settlement of the said claim, insisted that all evidence of the transactions hereinabove referred to be cancelled and destroyed, and in accordance with such understanding, the attorney for the plaintiff in said action was charged with the duty of having such evidence cancelled and destroyed and did, as he supposed, destroy it.

That the said John A. Connolly had been your friend and client for many years prior to 1904, but by reason of the commencement of the aforesaid action and other matters, that friendship ceased at or prior to the time that you returned the $3,940.55.

That thereafter and in the month of May, 1911, the said John A. Connolly made, executed and delivered to you his promissory note for $4,000, payable in four months, to your order, together with an affidavit of which the following is a copy:

"City and County of New York, *ss.:*

John A. Connolly, being duly sworn, says: That he is the maker of a note for Four Thousand Dollars ($4000), dated this 5th day of April, 1911, to the order of Daniel F. Cohalan, and that there are no defenses thereto and no counterclaims or offsets against the same.

JOHN A. CONNOLLY.

Sworn to before me this 5th day of April, 1911.

Ella Drohan,
Notary Public, New York County."

That prior to that time the said Connolly was in financial difficulties and was trying to obtain an appointment to some public position. He was desirous of obtaining your aid to securing such appointment and for that reason endeavored to re-establish the friendship which had theretofore existed between you.

That in the course of his endeavors to obtain your aid and re-establish such friendship, he called upon you and asked your aid and assistance. That you thereupon informed him, in substance, that before he could secure such assistance it would be necessary for him to deliver to you said promissory note and affidavit. That no other consideration whatsoever passed from you to the said Connolly for the said promissory note.

That at the time that the aforesaid affidavit was delivered to you by his attorney, Cruikshank, it contained at the end thereof the words "to the knowledge of deponent." That you thereupon insisted that the said words be stricken from the said affidavit,

which was accordingly done, in your presence, by the counsel for the said John A. Connolly, but in Connolly's absence and without his knowledge.

That in the month of May, 1913, a demand was made upon you for the return of the said note and affidavit by the said John A. Connolly through his counsel, Lyman E, Warren, in a letter of which the following is a copy:

"NEW YORK, *May* 19, 1913.

HON. DANIEL F. COHALAN:

MY DEAR JUDGE.— I have been consulted by Mr. John A. Connolly in regard to a promissory note made by him and delivered to you in April, 1911, said note bearing date April 5, 1911, for $4,000, and accompanied by an estoppel affidavit. His statement to me being that said note was given by him upon your express promise to procure him a position, which you have failed to do, although more than two years have now elapsed.

He states to me this note was given you after you had had some differences arising with the conduct of the Victor Heating Company, which had been theretofore adjusted.

If this statement is correct, I have advised him that he has the right to receive back this note, it being an obligation which might be enforced against him, and he has requested me to bring suit for the surrender and cancellation of this paper, but as experience has taught me there is always two sides to most controversies I declined to bring an action until I had requested a return of the document, and hence this letter is sent you requesting the return of the same, with the estoppel affidavit accompanying it. I am leaving for the Court of Appeals in the morning and shall return on Wednesday, at which time I trust I may have a reply to this communication.

The note and affidavit can be delivered at my office. Unless I hear from you on or before Thursday A. M., I shall treat your silence as a refusal, and I am instructed by Mr. Connolly to bring an action for its recovery. Trusting this unpleasant duty may be obviated either by a delivery of the paper to me as his attorney or that I may be convinced his statement as to its procurement or delivery is incorrect, I beg to remain,

Very respectfully,
LYMAN E. WARREN."

That thereafter and on May 22, 1913, you returned the said note and affidavit to the counsel for the said John A. Connolly.

It is also charged by Mr. Connolly that the statement which you have furnished to the public press in answer to his charges is untrue and misleading, and that in the course of that statement you disclosed confidential communications made to you by him while you were his attorney.

Very truly yours,

EINAR CHRYSTIE,

Attorney to the Committee on Grievances, Association of the Bar of the City of New York.

EXHIBIT B

SUPREME COURT

Chambers Street, New York

DANIEL F. COHALAN, Justice.

June 17, 1913.

EINAR CHRYSTIE, Esq., *Attorney to the Committee on Grievances, Association of the Bar of the City of New York,*
39 West 43d Street, New York City.

DEAR SIR.— This is to acknowledge receipt of your letter of the 16th instant delivered at my house last night, in which you inform me that the Governor has requested your Committee to file with him any and all facts and exhibits in its possession concerning certain charges made against me by one John A. Connolly, together with its report, recommendation and conclusions regarding such charges; and that your Committee would hold a meeting on the 18th instant at 2 o'clock P. M. for the purpose of investigating such charges and determining what if any action should be taken thereon, and inviting me to be present at said meeting, either personally or by counsel, and to participate therein.

In reply thereto, I beg to say that, while as a member of the bar I should welcome the opportunity thus offered me in the forum provided by your association, yet I feel that as a Justice of the Supreme Court I have no right to submit those charges to an

investigation at the hands of your Committee. I have, as you know, requested the Governor to submit the accusations made against me to the Legislature now in session as the only body with constitutional jurisdiction to determine the truth or falsity of these charges, and take appropriate action thereon and doubtless my request will be acceded to.

Without, therefore, in any way intending any want of courtesy to your Committee, I beg to advise you that I shall not be present at your hearing, nor be there represented by counsel.

I notice that your body has been asked to forward to the Governor not only statements and exhibits bearing upon the charges, but also its "recommendation and conclusions" regarding the same. For your Committee to submit any such recommendations or conclusions would, I venture to submit, be manifestly improper, in view of the fact that the Governor has been asked by me in his discretion to submit the questions in issue to the Legislature, as the sole body with jurisdiction to act. Your Association is without power to compel the attendance of witnesses, administer oaths, or punish for perjury, and has none of the other powers incident to a final determination of the charges upon the merits; but the Legislature has all of these powers. Your compliance under these conditions with such request to the extent of formulating recommendations or expressing conclusions, cannot but tend to some extent at least, to prejudge the merits of the controversy, which, I must assume, you have no intention of doing.

Yours very truly,

DANIEL F. COHALAN.

ACCUSER CRAZY, SAYS COHALAN.

Connolly's Charges the Product of Diseased Mind, He Declares — Was Once His Lawyer — Got him Business and Was Paid Merely as an Attorney — "I Am Not a Rich Man" — Says He Never Took a Penny From Any One for Political Influence.

Supreme Court Justice Daniel F. Cohalan replied last night to John A. Connolly's accusations that he was a grafter before he became a Judge.

He says that Connolly is a crazy man whom he had to humor to avoid making trouble for his party and its candidates in ticklish campaigns. He admits that he got $4,000 from Connolly in 1904, 1905 and 1906 for getting $40,000 or $50,000 worth of work for Connolly, but he insists that his services were merely those of an industrious, honorable lawyer who had no political influence.

He returned Connolly's cash and Connolly's note in order not to embarrass his party, he says. He got the cash for honest service, the note as a measure of Connolly's repentance. Connolly's story is a vile lie, he says, and he is emphatic in saying that he didn't expect to be a Judge when he took the note.

Justice Cohalan tells the public that he is a man of less than moderate means. There is a mortgage of $45,000 on his $60,000 home in East Ninety-fourth street. He values his Glendore, Ireland, home at $3,700. If he died, he says, there would be little left for his children save his life insurance.

BY JUSTICE DANIEL F. COHALAN.

When I read in the *World* last Sunday its account of the alleged transactions, seven to nine years ago, between John A. Connolly and myself, the fact that I must be subjected to a period of newspaper torture was apparent. That article contained one definite charge — that I had taken Connolly's note for $4,000 in consideration of a promise from me to get a political place for Connolly.

This charge is an absolute falsehood. Promptly so declaring, but assuming that this attack would be kept up several days, I have waited with such patience as I might until it had expended itself before making that statement on my own part which, of course, my duty to the people and to my own reputation requires. Now that Connolly says he has ended his story, I lay before my fellow citizens a truthful and complete account of the facts which have been distorted and falsified by Connolly and those assisting him in this attack upon me.

ALLEGES CONNOLLY WAS INSANE.

Following the *World's* original publication it printed a daily series of contributions to its columns as from the pen of Connolly himself. I have lately learned that he was at one time an inmate of an insane asylum. The particular conditions that compelled his confinement were described in the commitment papers to be "hallucinations, delusions, incoherence, great and causeless mental excitement and violence." It was also certified that he was "incoherent in speech, violent in action and restrained and controlled with difficulty."

The essence of Connolly's story is that by the exercise of political influence I obtained contracts from public officials for Connolly; that I did this under an agreement that I should receive from Connolly 55 per cent. of his net profits in these contracts; that I represented to him that a sum of $1,500 or some other sum was to be paid to others; that he brought suit against me to recover this money, and that to avoid a lawsuit I returned it to him; that he then wanted my influence to get for him a political position, and gave me his note for $4,000 on my promise to do that; that I did not get the place for him, and because of further threat of suit I gave him back the note.

SHOWS DISORDERED MIND, SAYS JUDGE.

This story is false. It is the fabric of a disordered mind. It is false that the money he paid to me was paid exclusively in connection with such work as I did to help him obtain contracts. It is false that I ever said to Connolly that I would pay or did pay or had to pay $1,500 or any single dollar to any person of any kind, character or description in connection with the matter, and this is a particularly vile lie. It is false that I returned his

payments to me for the purpose of avoiding a personal scandal. It is false that I gave back Connolly's note to avoid a present exposure.

The truth is that when I acted as Connolly's attorney I had neither public office nor political influence; that I acted for him solely as an attorney and as a friend; that I received payments from him only as an attorney; and that later, long later, when I had attained not public office but a position of some influence in the Democratic organization, upon Connolly's withdrawal of sworn allegations he had caused to be made against me, and upon his own statement repudiating those allegations, I gave back to him the money he had paid to me, or what he said was the amount of it, because I did not choose to permit myself, through precisely such a malicious use as is now being made of a newspaper, to become a storm centre of a political campaign in which I was not a candidate but to the possible hurt of my party and its candidates.

Helped Him Out of Trouble.

Until the fall of 1906 I was only one of thousands of young men, lawyers and business men, who in the hard competitions of New York were doing what they could to earn a living. It was all of fifteen years ago that I first met Connolly. I became his friend. His very eccentricities impelled me to take his part. I was then practising law at 271 Broadway.

He had all sorts of business difficulties — troubles with his creditors. He had domestic troubles — troubles with his wife. I advised him in these matters. I lent him money, although I had then about as little as I have now and was in scant position to do so. I did what I could to adjust his domestic affairs. I aided him in every way I could.

Then in 1904 on his request to do what I could to obtain business for him from municipal departments and other sources I studied the conditions of his company, familiarized myself with the nature of the work he was doing, advised him in regard to probable customers, advised him what public departments he might possibly obtain business from, suggested to him the sort of information about his methods and facilities for doing work that should be laid before officials and business men, personally introduced him to such persons as I knew in public and private life who had work of the kind that Connolly's firm was competent to do and submitted to them such arguments as the facts seemed to justify.

Got Him Some Business.

I advised him about and aided him getting between $40,000 and $50,000 worth of business, as I recall it, and that represented a large amount of work on my part. In addition to that I was advising him about his business affairs generally, and all about the difficulties and disputes in which his eccentric nature involved him. He seemed to have much trouble during the progress of his work with those with whom he had business relations and I had to spend much time in advising him in respect of his various controversies, in adjusting his differences and in arranging his affairs.

During that time I was scarcely known to the leaders of the Democratic party. I had neither political position nor power, and such success as my efforts on Connolly's behalf obtained was due not to influence but to industry. At various times during the years 1904, 1905 and 1906 and in varying sums he paid me about $4,000 for my services.

Work Merely That of a Lawyer.

Whether in fact the total sum that Connolly paid me for my services equalled 55 per cent. of his net profits from municipal contracts, or any other percentage, is something that I never had the slightest means of knowing. This I do know — that all the work I did for him was work which a lawyer was entitled to be duly paid for, under any professional standard however strict, and my charges were not excessive. Connolly was a man of no means whatever. The only source of revenue out of which he could possibly pay a lawyer, doctor or grocer was the money he received by way of profits from his business, and his business was that of a contractor; so that what I or any other creditor received from him necessarily came out of such profits.

The work I did for him ended, I think, early in 1906, after which period I could no longer afford to devote the time and energy which his business and other troubles seemed continually to demand.

Connolly's Demands Begin.

Now, in the fall of 1906, at the State convention, I did attain some position in Democratic councils. Thereafter that position became more prominent, and in the course of two or three years Connolly began to make demands on me. First he asked, then he demanded, and finally he threatened, and, in 1909, at a time when the fortunes of the party seemed to be at issue, when a difficult mayoralty campaign was impending, Connolly brought suit against me for the amount of the fees that he had paid in 1904, 1905 and a part of 1906.

I knew he was a weird man. In the language of his committal to the Poughkeepsie asylum, he had "hallucinations, great and causeless mental excitement and violence." I did not then know that he had been committed, but I did know that his mind was queer.

I held no public place and had no thought of one; still, I did not want the malicious aberrations of Connolly to become a factor in a political campaign to the injury of the party, making me the pivot of a mayoralty campaign to which I had no other relations than that of a party adviser.

Four thousand dollars which he demanded was a good deal to me then, as it is now. I knew that I had earned it by earnest, assiduous and sincere effort and advice in the attention I had given to Connolly's affairs, and that I had earned it at a time when my political relations were of little account, and that I had charged him for professional work and for nothing else and not enough to compensate me for that.

Why He Gave the Money Back.

It seemed ungenerous on my part, now that I had become something of a party figure, to let Connolly inject into that political campaign which might affect the fate of the party the false and preposterous suggestion that he now publishes, with the same malicious purpose and at a similarly chosen political moment; and so, when Connolly withdrew his false complaint, I gave back the $4,000 he had demanded, and I gave it knowing that it was not his, that it was mine, that I had earned it rightfully, but hoping to save the party from that misrepresentation and distortion of facts which I knew his disordered mind was capable of creating and of which the enemies of my party might be glad to avail.

Later Connolly's friends came to me to seek a reconciliation for him. They made various appeals and finally, through a relative; and then, after many such solicitations, I consented to see Connolly. He told me how wrong he had been, how he had been egged on to it by the bitterness of political foes and how sorry he was.

I said nothing more than to express my regret for his troubles, and I told him, as I felt, that I could not forgive him unless he would do what he could to repair the injury that he had done to me in going about among my friends stating that I had wronged him, when it was he that had wronged me. He then offered to give to me his note for the four thousand dollars, or thereabouts, that had been in question, explaining that he had no money. I knew that. I knew he was head over heels in debt. The note was nothing to me except as it went to prove that the stories Connolly had been telling were false.

Connolly Wanted Forgiveness.

Even then I did not know of his record of insanity, but I did know his changeful humors, his recurrent fits of malice. What he himself asked, and what those of his friends who had been to see me had asked, was not office, not practical aid of any kind, but forgiveness and a renewal of personal relations.

That is a strong appeal to me, as all men of human instincts will surely understand. But I did not have it in my heart to forgive him until in some way he had withdrawn his false accusations and in some way had placed himself where that recurrent malice of his could not renew them or where if he did renew them he would make that utter confession of mendacity and malice which he has made at this time.

A worthless note was not enough. The money itself would not have been enough. And so, knowing the man, I told him that before I could take his offered note he must consult an attorney, must frankly tell his attorney all the facts, must bring his attorney to me and that I would then see whether or not I could have further association with him.

Later Connolly and Mr. Alfred B. Cruikshank, as Connolly's attorney, came to see me at my office, No. 2 Rector street. I told them I would not accept the note which Connolly had offered unless it were accompanied by some declaration that would show his former statements about me were false. Mr. Cruikshank and Connolly left my office, and within the next day or so Mr. Cruikshank delivered to me the note and the affidavit which he had drawn and Connolly had sworn to. That affidavit was as follows:

Connolly's Affidavit.

"City and County of New York, *ss.:*

"John A. Connolly, being duly sworn, says: That he is the maker of a note for Four thousand dollars ($4,000), dated this 5th day of April, 1911, to the order of Daniel F. Cohalan, and that there are no defenses thereto and no counterclaims or offsets against the same to the knowledge of deponent.

Jno. A. Connolly.

"Sworn to before me this 5th day
of April, 1911.

"Ella Drohen,
"*Notary Public, New York County.*"

At no time in the course of this effort at reconciliation by Connolly or by Mr. Cruikshank was there any suggestion whatever about my trying to secure for Connolly a position, nor was any suggestion made by Mr. Cruikshank when later he came alone with the note and affidavit. Nor did Mr. Cruikshank tell me then or at any subsequent time, verbally or in writing, that Connolly had delivered the note to him upon any such condition, or that Mr. Cruikshank understood that any such condition attached to the delivery of it by him. On the contrary, Mr. Cruikshank, who was Connolly's own attorney, has publicly said:

Mr. Cruikshank's Statement.

"I acted as Mr. Connolly's attorney in giving the note for $4,000 and the accompanying affidavit to Mr. Daniel F. Cohalan, who was at that time a practising lawyer in New York city. I drew the affidavit that Mr. Connolly swore to, and I personally delivered the note and the affidavit to Mr. Cohalan. I understood then, and do now, that the sole consideration for that note was a money claim of Mr. Cohalan against Mr. Connolly. As a part of that transaction there was, so far as I know, no promise made by Mr. Cohalan to Mr. Connolly to obtain for him any political or other appointment or position, directly or indirectly, nor was the note given or received on any such consideration."

So I took the note and the affidavit, and I forgave Connolly. I thought he regretted what he had done and that he was sorry that he had been assailing me unjustly among my friends. Some time later he, and at other times Mr. Cruikshank, came and spoke to me about getting a place for Connolly, but I said to them that I could make no such promise. No such claim, no such intimation, no suggestion of the kind that Connolly now makes was ever made to me or conveyed to me by Mr. Cruikshank at any time or in any place.

At the beginning of a new municipal campaign came the demand from Mr. Warren for the return of Connolly's note. I knew of Mr. Warren as a member of the bar. I sent for him. I told him that Connolly's note meant nothing to me, so far as money was concerned. I told him that the statements in his letter to me imputed to Connolly were utterly false. I told him that the note and the affidavit had been held by me simply as assurance that Connolly's statements were false.

Didn't Intend to Use Note.

Although the note was a four months' note and long since past due, I had never made any demand for its payment, never made and never intended to make the slightest use of it and never regarded it as of any pecuniary value. I had taken it with its accompanying affidavit merely as a concrete admission by Connolly that his statements of 1909 were false. I told Mr. Warren that there never was a time after I had received the note when I would not have given it back to Connolly.

Understanding the suggestion of Mr. Warren's letter it was plain that Connolly intended doing what he since has done, and therefore both the note and the affidavit might as well be in Mr. Warren's possession as in mine. Both had been made a matter of record by Mr. Warren's letter.

Neither of them could Connolly distort or deny. I therefore told Mr. Warren he might have them now, and I gave them to him.

At the time the note and affidavit were delivered to me at my office, 2 Rector street, on April 5, 1911, I had no intention or expectancy of receiving a judicial appointment.

IS NOT A RICH MAN.

I have now dealt with the facts in regard to the two charges that have been made by Connolly. I wish now to notice one other thing. The insinuation has been made that I am a rich man and have made money out of politics. Nothing could be further from the truth. I am not a rich man. On the contrary, I am not even a man of moderate means. The house in which I live at 23 East Ninety-fourth street, could not be sold to-day for $60,000. It is subject to a mortgage of $45,000.

Reference has been made to "an estate" that I have in Ireland and to its richness or magnificence. The simple fact is that I paid $3,700 for that little place in Ireland. If I died to-day when my debts were paid the chief support of my children would come from my life insurance policies.

I have helped hundreds of men to obtain position, public and private positions, large and small positions. I did this because it was a pleasure to me to do it. And I solemnly assert that I have never received one single penny, directly or indirectly, or any benefit or advantage of a pecuniary kind for obtaining for any person any position of any kind or in any place. It has remained, among all those whom I have endeavored to assist in life, it has been left to Connolly thus to attack me.

Mr. Levy offered for the consideration of the House a resolution in the words following:

Resolved (if the Senate concur), That the message of the Governor of June 25, 1913, and the documents accompanying said message, relating to Hon. Daniel F. Cohalan, a Justice of the Supreme Court of the state of New York, be referred to a committee composed of three senators appointed by the President of the Senate, and three members of the Assembly appointed by the Speaker of the Assembly, to prepare rules and procedure for further action thereon, and the said committees report to their respective houses as soon as convenient.

Mr. Speaker put the question whether the House would agree to said resolution, and it was determined in the affirmative.

Ordered, That the Clerk deliver said resolution to the Senate and request their concurrence therein.

The Senate returned the concurrent resolution in relation to the charges against Justice Cohalan with a message that they have concurred in the passage of the same without amendment.

Pursuant to said resolution Mr. Speaker appointed Messrs.

Levy of New York, Adler of Monroe and Patrie of Greene as the committee on the part of the Assembly.

Mr. Levy from the special committee appointed to determine the procedure in relation to the charges against Justice Cohalan submitted the following report:

June 25, 1913.

To the Senate and Assembly:

The joint committee of the Legislature to which was referred the matter of procedure for further action upon the message of the Governor of June 25, 1913, and the documents accompanying said message, relating to Hon. Daniel F. Cohalan, a justice of the Supreme Court of the state of New York, pursuant to a concurrent resolution adopted this day, submits the following report:

1. The investigation shall be of certain alleged acts of the said Hon. Daniel F. Cohalan, Justice as aforesaid, set forth in said message of the Governor and the documents accompanying the same consisting of a report of the Grievance Committee of the Bar Association of the city of New York and an exhibit.

2. The investigation shall be publicly conducted by either the Senate and Assembly in joint session in the Assembly Chamber in the Capitol at Albany, or by a joint committee of the Legislature consisting of the members of the judiciary committees of the Senate and Assembly respectively as the Legislature shall, by concurrent resolution, determine. In the event that said investigation be conducted by such committee it shall, with all convenient speed, report the proceedings had and submit the record with its findings and conclusions and recommendations thereon to the Legislature for its consideration.

3. In the event that said investigation be conducted by such joint committee it shall have power to enforce the attendance of its members, to require a roll call on any question and make a record thereof; to issue subpœnas and enforce attendance thereunder and compel the production of books and papers thereby; and to limit debate on the part of its members and counsel.

4. The committee designated to conduct said investigation shall have, and it hereby is given and granted, all the power and authority given and granted to a committee of the Legislature or either house thereof by the legislative law, to select a chairman, to sit in such place or places within the State as it may deem necessary and proper for the convenience of witnesses or otherwise, may send for persons or papers or documents, com-

pel the attendance of witnesses, take under oath oral testimony and receive written evidence and may for that purpose employ such counsel, a stenographer and such other assistants as it may need. That the sergeant-at-arms of the Senate and the Assembly shall attend such committee, serve or have served such papers and perform such other duties as the committee may require. The actual and necessary expenses of the said committee, in carrying out the provisions of this resolution, are to be paid from the moneys appropriated for the contingent expenses of the Legislature by the Treasurer on the warrant of the Comptroller and the certificate of the chairman of the committee.

5. Parties to this investigation may appear by counsel and participate in the proceedings under such conditions as the Legislature or the joint committee shall prescribe.

6. All the legal rules in regard to the introduction of evidence and in the examination of witnesses prevailing in the courts of record in this State shall be observed by the presiding officer, subject to an appeal to the committee.

7. All motions and offers made by senators, members of Assembly or by counsel for the committee or for parties to the investigation shall be addressed to the presiding officer and if he shall require, or the committee order, they shall be reduced to writing and in the joint session of the Legislature read at the desk by the clerk and in the joint committee by the chairman, and the decision thereof and of all points and objections raised by said counsel shall be made by the presiding officer, which decision shall be final, unless an appeal shall be taken therefrom, in the joint session of the Legislature at the request of five members thereof, and in the joint committee at the request of a member of said joint committee.

8. The official stenographer of the Senate, with such assistants as shall be necessary, may take the proceedings, including oral testimony and evidence, and copies of all documents introduced in evidence, the remarks of senators and members of assembly and counsel, and the rulings of the presiding officer and the presiding officer shall procure the same to be printed or mimeographed for the use of the members and counsel at the opening of the session on the next day after the same shall have been given.

9. Should the Legislature determine that such investigation be conducted by the Senate and Assembly in joint session they

shall proceed with the investigation on the 30th day of June, 1913; and unless otherwise ordered shall meet in the Assembly chamber daily at 10 o'clock in the morning and shall take up the investigation and continue in session until 1 o'clock p. m., at which hour a recess shall be had until 2 o'clock when it shall meet again and continue in session until 5 o'clock. This rule may be changed by motion without previous notice at any time and a recess or adjournment may be taken at or to a different hour.

10. Should the Legislature determine that the joint committee conduct said investigation the said joint committee shall proceed with said investigation on the 30th day of June, 1913, at 10 o'clock a. m., at such place as said committee may designate.

11. Should the investigation be conducted by the Senate and Assembly in joint session, at the conclusion of the evidence they shall fix the time and place for the final arguments of counsel and shall determine the number of counsel to be heard.

Respectfully submitted,

JOHN F. MURTAUGH,
HENRY W. POLLOCK,
H. D. COATS,
AARON J. LEVY,
SIMON L. ADLER,
J. L. PATRIE.

The senate sent for concurrence a resolution in the words following:

IN SENATE,

ALBANY, *June* 25, 1913.

Resolved (if the Assembly concur), That the investigation of the matters contained in the message of the Governor to the Legislature of June 25, 1913, and of the documents accompanying the same in relation to certain alleged acts of the Hon. Daniel F. Cohalan, Justice of the Supreme Court of the State of New York, be conducted by a joint committee consisting of the members of the Judiciary Committees of the Senate and Assembly respectively, to hear the evidence and report with all convenient speed the proceedings had and submit the report with its findings, conclusions and recommendations thereon to the Senate and Assembly for their consideration and,

Further resolved that the recommendations as to procedure contained in the report of the joint committee of the Legislature to which was referred the matter of the determination of a form of procedure for the investigation into the matters as above mentioned be adopted, and that such investigation be conducted pursuant to the form of procedure contained in said report.

By order of the Senate,

PATRICK E. McCABE,

Clerk.

Mr. Speaker put the question whether the House would agree to said resolution, and it was determined in the affirmative, a majority of all the members elected to the Assembly voting in favor thereof and three-fifths being present.

AYES 140
NOES 00

Ordered, That the Clerk return said resolution to the Senate, with a message that the Assembly have concurred in the passage of the same.

SENATE CHAMBER,

ALBANY, N. Y., *June* 30, 1913.

In the Matter of the Investigation by the Joint Committee on the Judiciary of the Senate and Assembly of the State of New York, into the charges preferred by John A. Connolly against Honorable Daniel F. Cohalan, a Justice of the Supreme Court of the State of New York, in and for the First Judicial District.

Pursuant to resolution, the Committee convened at 10:00 A. M.

Present:

For the Senate:

Hon. Robert F. Wagner,
Hon. James A. Foley,
Hon. Herman H. Torborg.

For the Assembly:

Hon. Aaron J. Levy,
Hon. Mark Goldberg.

Appearances:

Wm. D. Guthrie, Esq., as counsel in behalf of the Bar Association of the City of New York.

Einar Chrystie, Esq., Secretary of the Bar Association of the City of New York.

Assemblyman Goldberg.— Pursuant to a resolution adopted last Wednesday evening by this Committee, I now call the meeting to order.

I may state that the reason Mr. Cohalan is not represented by counsel is that counsel for the Judge communicated with the Committee and was informed that nothing definite would be done today, excepting a formal meeting and an adjournment.

Mr. Guthrie.— I submit for the consideration of the Committee formal statement of specific charges against the respondent, specifying the nature of those charges.

Senator Wagner.— For the purpose of assisting the Committee, I take it, in formulating charges.

Mr. Guthrie.— The Constitution says that there shall be a statement of charges served upon the respondent.

Assemblyman Levy.— The Constitution, Mr. Guthrie, as I remember the language of it, says that there "shall be a statement of the cause alleged." Those are the precise words of the Constitution.

Mr. Guthrie.— Have we got a copy of the Constitution?

Mr. Chrystie.— Here is one.

Assemblyman Levy.— Look at section 11 of article 6 of the Constitution.

"Copy of the statement of the cause alleged," I think are the precise words of the Constitution.

Mr. Guthrie.— Yes, "with a statement of the cause alleged." It might be suggested that the report of the Bar Association setting forth the facts was not sufficiently specific, and it, therefore, occurred to us that it would be wise to serve a formal statement of the cause or causes alleged, which are based upon the report of facts or evidence submitted.

Assemblyman Levy.— You mean, then, in the form of a bill of complaint?

Mr. Guthrie.— It just simply states the nature of the charges.

Assemblyman Levy.— I mean in that form, not necessarily a complaint, but in the form of a complaint which separates the allegations —

Mr. Guthrie.— Separating the allegations, yes.

Assemblyman Levy.— In orderly method.

Mr. Guthrie.— Yes, in orderly method; and we are having them copied and in a few minutes will submit it for your consideration.

Assemblyman Levy.— I assume that is in aid of this work.

Senator Wagner.— The Committee already decided that should be done, and of course the Committee are glad of your co-operation and your desires in that matter.

Mr. Guthrie.— I think if you will indulge me another ten or fifteen minutes I will have it ready.

Senator Wagner.— You can submit it to us; we need not be in session.

Mr. Guthrie.— How many copies do you want?

Senator Wagner.— One or two, because we may not agree with your phraseology and we may have to make changes.

Mr. Guthrie.— It may be of some help.

Senator Wagner.— I am sure it will be.

Assemblyman Levy.— Then you will file that with the Committee.

Mr. Guthrie.— It is being copied. We submit it on behalf of the Bar Association and you will decide whether you will make the statement of the cause alleged on behalf of the Committee or on behalf of the Bar Association. We think that you will probably prefer that the statement of the cause alleged for the removal under section 11 of article 6 of the Constitution should be by the Bar Association which so far is the moving party.

Senator Wagner.— That is for the Committee to decide. The Committee is now going to look into this matter and whatever charges are formulated will be formulated by the Committee. We are going to conduct this inquiry, and in order to do that we shall formulate our own charges and then call upon Judge Cohalan to answer. Then we have something definite.

Assemblyman Levy.— We begin with your statement of alleged causes for removal, and then if the Committee wish to change them, they may change them or otherwise make such changes in form and in substance as it sees fit.

Mr. Guthrie.— I think probably the statement of the alleged causes had better be on behalf of the moving party, rather than on behalf of the Committee that is to sit more or less in a judicial capacity.

Assemblyman Levy.— Don't you see the moving party must be the legislature? The legislature took the moving step in this matter. The Governor's message merely submitted to the legislature certain matters for its consideration. It considered them, and by a joint resolution of the legislature these committees are now moving. It may be correctly said it is the moving party.

Mr. Guthrie.— Probably the legislature submits the formal charges or words them or puts them in its own language, or will it adopt those of the Association?

Senator Wagner.— I think we are really arguing about something that is not important.

Mr. Guthrie.— It is not vital.

Mr. Goldberg.—The Committee will adjourn to Tuesday morning, July 8, 1913, at 10:30 a. m.

Adjourned to July 8, 1913, at 10:30 a. m.

SENATE CHAMBER,

ALBANY, N. Y., *July* 8, 1913.

In the Matter of the Investigation by the Joint Committee on the Judiciary of the Senate and Assembly of the State of New York, into the charges preferred by John A. Connolly against Honorable Daniel F. Cohalan, a Justice of the Supreme Court of the State of New York, in and for the First Judicial District.

Met pursuant to adjournment at 10:52 A. M.

Present:

The members of the Committee on the Judiciary of the Senate and Assembly.

Hon. John F. Murtaugh, Chairman.

Appearances:

J. A. Kellogg, Deputy Attorney-General, Counsel for the Committee.

William D. Guthrie, Esq., Counsel for the Bar Association of the City of New York.

Einar Chrystie, Esq., Secretary of the Bar Association of the City of New York.

John B. Stanchfield, Esq., William Travers Jerome, Esq., Isidor J. Kresel and John Quinn, Esqs., Attorneys for the respondent, Daniel F. Cohalan.

The Chairman.— This is an investigation by the Judiciary Committee of the Senate and Assembly in the matter of the charges preferred by John A. Connolly against Honorable Daniel F. Cohalan, a Justice of the Supreme Court of the State of New York, in and for the First Judicial District.

Now, the Committee wishes to announce that the interior of the rail is reserved for the witnesses, the press, senators and judges of the courts; that there will be no smoking in the room during the investigation, and that the people in the galleries will observe quietness in going in and going out, and we are now ready to hear the appearances.

Mr. Kellogg.— I appear for the Committee, as I understand it, and the Bar Association of the City of New York.

Mr. Guthrie.— Mr. Chrystie and I are here for the Bar Association of the City of New York.

Mr. Stanchfield.— Mr. Jerome and Mr. Quinn and myself appear for the respondent; also Mr. Kresel.

Mr. Kellogg.— Mr. Chairman and gentlemen of the Committee, there are certain matters of procedure for the introduction of the record, which have been submitted by me and by me to counsel on both sides, and as I understand, an agreement has been made as to the further progress of this hearing, which may expedite matters, if I put it upon the record by way of concession. If I overstep the agreement, just kindly call my attention to it.

In the first place, subdivision 5 of the Rules of Procedure recommended by the Joint Committee appointed for that purpose, provides on page 29 of the printed proceedings of this Joint Committee:

"The parties to this investigation may appear by counsel and participate in the proceedings under such conditions as the Legislature or the Joint Committee may prescribe."

In that connection I have to set forth, and I have suggested to counsel on both sides, as I understand there is no objection that as counsel to the Committee I shall follow the custom which has been maintained in previous proceedings under this section of the Constitution and examine the witnesses direct, covering the ground so far as may be possible; at the conclusion of my examination that the representatives of the Association of the Bar of the city of New York may be permitted to examine witnesses if there is anything that I have omitted, or they may call my attention to matters that I have omitted; that in the examination of the witnesses called by the respondent that both the Bar Association of the city of New York and counsel may be permitted to cross-examine after the direct examination has ceased. My own view being that the Association or counsel for the Association for the Bar of the city of New York should proceed with the cross-examination and that I should follow if there is any additional fact which seems pertinent to me or which may be suggested to me which should be brought out, thereby avoiding duplication of examination. That is the procedure that I suggest to the Committee.

Mr. Stanchfield.— Do I understand that last statement of Judge Kellogg is put by you as being in the nature of a concession by counsel for the respondent?

Mr. Kellogg.— Yes.

Mr. Stanchfield.— My own personal opinion is that if two or three counsel are to participate in the examination of a single witness it will extend this hearing very much further than we had anticipated; and in making that suggestion I do not mean in any way to curtail the right of counsel upon either side to elicit all the information they desire; but for two or three counsel to participate in the direct or cross-examination of a witness certainly is a proceeding that is unparalleled in courts of record in this State. That is my experience and I do not desire the statement of Judge Kellogg to go upon this record in the nature of a concession by us that that procedure may be followed. It is time enough to cross that bridge when we get to it.

The Chairman.— The Committee feels that there should be as little duplicating of testimony in the examination as possible. Now, the counsel for the Committee will take the direct examination. If it is necessary or it seems desirable by the counsel for the Bar Association to ask any question on direct examination or additional questions, as I understand it, they may do so; and as I understand it the counsel for the Bar Association will cross-examine. And I doubt very seriously that there will be any additional questions asked.

We are ready to proceed with the witnesses.

Mr. Stanchfield.— Just a moment before we call the witnesses. Should the charges be read?

Mr. Kellogg.— There is certainly preliminary procedure that ought to go on the record before the calling of witnesses. I offer in evidence proof of service which will be supplied by the Sergeant-at-Arms of the proceedings of this Committee as printed. Proof of service upon the respondent of the proceedings of June 25, 1913.

Mr. Kellogg.— The service being conceded. It is then conceded that the statements of the cause alleged as formulated by the representatives of the Association of the Bar of the City of New York was served on the respondents on the third day of July

together with a letter accompanying the same from counsel to the Committee. That itself is in the nature of a pleading in this case, and if your Honors desire I will read it, as the foundation of further proceedings.

The Chairman.— Have those been printed?

Mr. Kellogg.— They haven't been printed.

The Chairman.— I think you better read those and put them on the record.

Mr. Kellogg.— The letter which accompanied them is as follows:

"New York, *July* 3, 1913.

"Honorable Daniel F. Cohalan, *Justice of the Supreme Court, 23 East 94th Street, New York.*

"Dear Sir.— Referring to the proceedings of the Joint Committee on the Judiciary, of the Senate and Assembly, of the 25th of June, 1913, a copy of which I understand has heretofore been served upon you, I now beg to hand you herewith inclosed a copy of the statement of the cause alleged as submitted to and filed with the Joint Committee by the Association of the Bar of the City of New York.

"I am, your truly,
"JOSEPH A. KELLOGG,
"*Counsel to Joint Committee.*"

In the Matter of Charges against Hon. Daniel F. Cohalan, a Justice of the Supreme Court.

A copy of the proceedings of the Joint Committee on the Judiciary of the Senate and Assembly of the State of New York on the 25th day of June, 1913, containing a copy of the message of His Excellency, the Governor, dated June 25, 1913, and of the accompanying report of the Committee on Grievances of the Association of the Bar of the City of New York, dated June 24, 1913, together with the exhibits thereto attached, including a copy of a statement made by the respondent Hon. Daniel F. Cohalan and published in the press on or about June 1, 1913, having been duly served on said respondent, the following is now submitted by and on behalf of the Association of the Bar of the City of New York, through its attorneys thereunto duly authorized, as the statement of the cause alleged for the removal of said respondent, viz.,

That the said respondent should be removed from his office of Justice of the Supreme Court of the State of New York pursuant to section 11 of article VI of the Constitution of the State of New York, because of acts affecting his professional and personal character and his fitness for judicial office, as follows:

1. That in or about the month of November or December, 1903, and again in or about the month of May, 1904, at the City of New York, said respondent agreed with John A. Connolly to obtain for the Victor Heating Company, a New York corporation, by use of his political influence, contracts and orders from administrative or executive officers of the City of New York for work to be done and materials to be furnished by said heating company to the city, or departments thereof, in consideration of the payment to him of a percentage of the profits of said company derived from such orders or contracts, and that said agreement was carried into effect by various acts, as more particularly set forth and referred to in said report of the Committee on Grievances.

2. That in or about the month of May, 1909, at the City of New York, said respondent agreed with said John A. Connolly, or one Alfred B. Cruikshank, a lawyer practising in said city, or with both of them, to destroy evidence of the existence of said agreement and the performance thereof and of any and all acts done and all payments made to said respondent in pursuance thereof, and also agreed to create a false record in the verification of a pleading, and that said agreement was carried into effect by various acts consisting:

(a) of the destruction of evidence;

(b) of the preparation and verification of a false amended complaint, and

(c) of the destruction of accounts, books of account, records and writings belonging or appertaining to the business of said corporation, the Victor Heating Company.

3. That in or about the month of April, 1911, at the city of New York, said respondent agreed with John A. Connolly to obtain for said Connolly an appointment to public office or to a clerkship, or other subordinate position in a public office, in consideration of a promissory note of said Connolly in favor of the respondent payable to respondent's order for the sum of $4,000.

4. That in or about the month of April, 1911, at the city of New York and in connection with said note for $4,000 mentioned above,

said respondent agreed with said John A. Connolly to have the said Connolly make a false affidavit to the effect that there were no defenses to said note and no counterclaim or offsets against the same.

5. That in or about the month of May, 1913, at the city of New York, said respondent made and issued to the press a statement in regard to the foregoing matters and those more particularly referred to in said report of the Committee on Grievances, which said statement by respondent was untrue and misleading.

All of which is respectfully submitted by the Association of the Bar of the City of New York, and it now and here alleges and offers to substantiate the same by oral and documentary evidence.

Albany, N. Y., June 30, 1913.

THE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK.

By William D. Guthrie and Einar Chrystie, its attorneys and representatives.

That I think should be filed with the papers.

The Chairman.— Counsel, those five charges are contained in the memoranda furnished by the Legislature to the Governor?

Mr. Kellogg.— I don't think it includes all of those, but they are all in there.

Mr. Stanchfield.— If the Chairman of the Committee please, this is the first opportunity the respondent has had before a tribunal with power to make any suggestions with reference to the form in which these charges should be made. Without the slightest desire to ask at your hands any delay, we make no criticism upon the form of any of these charges with one exception. That exception relates to the so-called fifth accusation which reads as follows:

"5. That in or about the month of May, 1913, at the city of New York, said respondent made and issued to the press a statement in regard to the foregoing matters and those more particularly referred to in said report of the Committee on Grievances, which said statement by respondent was untrue and misleading."

Now that allegation in a general way has relation to the publication by the respondent to the press of the country with reference to his connection with John A. Connolly.

Now, in a broad sense, these charges lay at the door of this respondent a wrong. In their substance and in their essence and

by the contention of counsel by the other side, they are intended to impart a wrong, and the gravamen of this proceeding is to remove the respondent, if he is found guilty of such gross immorality as may require it, from his high office of a judge of the Supreme Court of this State. Therefore, in speaking to a tribunal — and I am glad that it is true — composed of lawyers, it ought to be so clear that there is no room for debate or dispute no matter how far we may look into the future as to just what issues and what questions have been litigated and passed upon and adjudicated by the joint committee of the Legislature of this State.

Now, following that line of thought for a moment, and I shall be very brief: This accusation ought to be as clear and as specific as would be required if the respondent had been indicted at the bar of justice and were called upon to plead. Now, we submit it may be granted by consent that there ought to be furnished us now before we proceed with this hearing, a bill of particulars, or phrase it as you will, a succinct statement of just where that statement of the respondent is untrue and misleading. In other words, as lawyers you will appreciate, here is a statement of the respondent covering two or three columns in one newspaper laying at our door an accusation, stating that that charge is untrue and misleading, and we have absolutely no information as to what we are called upon to meet in that respect.

Now we make no criticism upon the other four charges. We understand what is laid at our door and we are perfectly prepared to meet it, but with reference to that statement I submit that we ought to have, I repeat, by consent or by compulsion at the hands of this Committee, a more definite and detailed statement of the accusations that we are expected to answer.

I make that motion before we file an answer, if the Chairman please.

Mr. Guthrie.— If the Committee please, we submit that when charges are submitted in the detail embodied in the report of the Grievance Committee, annexed to the message of the Governor, there is no aspect of this whole investigation in regard to which the respondent has not been apprised. It was in answer to the substance of all those facts set forth in that detailed statement that he published on the 31st of May or the 1st of June, this statement which the Committee says is "untrue and misleading." That statement is in direct answer to each one of the charges set

forth in that report of the Grievance Committee. There is no possibility of any surprise on the part of the respondent. The only effect of now compelling us to particularize even more than we have, is to exclude from the scope of this investigation some of the matters which are referred to in the report of the Grievance Committee which his Excellency, the Governor, has submitted to you.

We submit that it is not necessary for the protection of the interests of the respondent, that he, of all men, should be told in what respect his statement to the press is "untrue and misleading." We say that it appears from the facts which are set forth in the report of the Grievance Committee, because they are utterly inconsistent with that report.

The Chairman.— Senator Brown would like to ask a question.

Senator Brown.— I would like to ask you a question. Is it your idea that this charge amounts to a charge that the statement, in so far as it was in conflict with the prior preceding charges, as you have made them, was false and misleading?

Mr. Guthrie.— Yes.

Senator Brown.— That is the substance then, of this last —

Mr. Guthrie.— That the statement as published by the respondent in answer —

Senator Brown.— In so far as it differs from the charges as you have made them was false and misleading.

Mr. Guthrie.— Untrue and misleading.

Senator Brown.— Untrue and misleading.

Mr. Guthrie.— In that respect, following the language which I think was used in the Maynard case, where a statement used by Judge Maynard — it was charged in the proceedings that statement was untrue and misleading.

Senator Brown.— I should think both the Committee and counsel had a right to a common understanding as to precisely what this charge meant, and if it means just that, why probably there would not be any indefiniteness about it.

Mr. Guthrie.— I have before me a memorandum of what seems to me a statement, broadly, of the particulars in which the state-

ment of the respondent conflicts with the findings of fact of the Grievance Committee. I am perfectly willing to read that, but I submit that the specification of these respects ought not to tie our hands in regard to the investigation of all the matters submitted by the Legislature to this Committee. For example,

(Reading) "We think that the statement of the respondent is untrue and misleading in so far as it declares that he received payments from Connolly or the Victor Heating Company, only as attorney at law and for legal services;

"In the statement that the work and services for which respondent admits Connolly paid him $4,000 in 1904, 1905 and 1906 were not for legal services, and that in respect of such payments he acted solely as attorney;

"In the statement that he did not make any agreement with Connolly or the Victor Heating Company to use his political influence in order to secure orders or contracts from the departments of the city of New York;

"In the statement that the $4,000 which he admits was given back to Connolly or the Victor Heating Company in 1909 was given for the reasons stated in that statement by the respondent;

"In the statement of an explanation of the giving of a note or affidavit of April 5, 1911, on the ground that such statement was contrary to the fact, and that such note and affidavit were given as found and stated in the report of the Grievance Committee;

"In the statement that in 1894 and 1895 — in 1905, in 1904, the respondent was not prominent in politics and then had no political influence. Finally, in the statement that on the 5th of April, 1911, when Connolly delivered to him the note for $4,000 and the accompanying affidavit called the affidavit of estoppel, the respondent intended to accept and expected to receive a judicial appointment.

"We think those are the main contradictions which we expect to establish."

Assemblyman Cuvillier.— Mr. Chairman, may I ask a question?

The Chairman.— Certainly.

Assemblyman Cuvillier.— In Mr. Justice Cohalan's letter I understand that in charge 41 there is no statement in his letter that he expected judicial appointments.

Mr. Guthrie.— I will read you the statement to which I refer. It is on page 27 of the printed proceedings of the Legislature of June 25, 1913. Speaking of this note, at the top of the page, the respondent says:

"At the time the note and affidavit were delivered to me at my office, 2 Rector street, on April 5, 1911, I had no intention or expectancy of receiving a judicial appointment."

The Chairman.— Is that all, counselor?

Mr. Guthrie.— Yes.

Mr. Stanchfield.— If that statement by Mr. Guthrie, speaking for counsel for the Bar Association, is to be placed upon the record as a bill of particulars in response to the motion that I proposed to the Chairman, it is perfectly satisfactory.

The Chairman.— That is the ruling.

Mr. Stanchfield.— I understand that is the ruling?

The Chairman.— That is the ruling.

Mr. Stanchfield.— Now the respondent feels at this time that it should file and files answers to these charges which in the main it is not necessary to take the time to read; it is very short; it is a general denial.

The Chairman.— The Committee desires that the answer should be written in full on the record.

Mr. Stanchfield.— Oh, yes, that may be done.

The Chairman.— It will be copied right in so that we will have it in the morning.

Said answer is as follows:

"In the Legislature of the State of New York.

In the Matter of the Charges against DANIEL F. COHALAN, a Justice of the Supreme Court.

The answer of Daniel F. Cohalan, above named, to the statement of charges preferred against him by the Association of the Bar of the City of New York, a copy of which statement of charges has been heretofore served upon him, reserving to him-

self the right at all times to take such exception as he may be advised to the sufficiency of said statement of charges in fact and in law, respectfully shows to this honorable Legislature:

First.— This respondent alleges that he is a Justice of the Supreme Court of the State of New York, and in person comes before this honorable Legislature and denies that there is any crime, misdemeanor or offense generally or particularly alleged in the aforesaid charges to which he is or can be bound by law to make answer.

Second.— This respondent denies the allegations contained in the paragraphs of the statement of the causes herein alleged against him, marked respectively, 1, 2, 3, 4, 5 and 6.

WHEREFORE, This respondent respectfully submits that said charges should be dismissed.

JOHN B. STANCHFIELD,
WILLIAM TRAVERS JEROME,
JOHN QUINN,
ISIDOR J. KRESEL,
Counsel for Respondent."

Mr. Kellogg.— It is conceded that a subpœna duces tecum has been served on the respondent requiring him to produce here certain books and papers. This subpœna I desire to file as part of the record.

The Chairman.— There isn't any necessity of carrying that on the record. You mean to have that filed on the record?

Mr. Kellogg.— I mean to have that filed first.

Mr. Stanchfield.— Let me get the contents of what that concession was stated to be.

Assemblyman Levy.— Why not merely offer it in evidence and not spread it in full on the record?

Mr. Kellogg.— The Committee's suggestion is entirely satisfactory to me in that regard. The concession, as I stated it —

Mr. Stanchfield (interrupting).— Read that, Mr. Stenographer.

The stenographer thereupon read the record as follows:

Mr. Kellogg.— It is conceded that a subpœna duces tecum has been served on the respondent requiring him to produce here certain books and papers, which subpœna I desire to file as part of the record.

Mr. Stanchfield.— There will be no dispute but what the subpœna was served. I mean if counsel for the Committee simply desired upon the record a concession that the subpœna duces tecum was simply served upon the respondent, that concession we will make; but I see no purpose to be served and no rule of law rendering the subpœna itself evidence in this case. There are a great many questions that may arise with reference to the right to subpœna this respondent on these charges, and if one were of a disposition, a great many things might be said about the propriety in an accusation of this kind, if we should raise the question as to the constitutional rights of this respondent, to serve process upon him that compels him to produce anything whatever. I am not now raising that question but I do object to the spreading upon the record of this subpœna because it hasn't any place there. If they want the concession that one was served they are welcome to it.

The Chairman.— There is no necessity for the subpœna going on the record as I understand it, except there might be a question when some of the books were produced, a question of whether a subpœna was issued to bring forth that book.

Mr. Stanchfield.— I will concede it was served.

Mr. Kellogg.— I wish to offer in evidence at this time the charter and by-laws of the Bar Association — of the Association of the Bar of the City of New York, which I understand —

The Chairman (interrupting).— Any objection?

Mr. Stanchfield.— I don't think so. I shall make no objections here unless they have substance to them.

Mr. Kellogg.— The exhibit is in the hands of the Express Company. I want to offer it in this connection, and I will produce it later. It is not physically present, but it will be shortly, at which time I will have it.

Then, I wish to have it appear upon the record that the respondent was admitted to practice law as an attorney and counselor in the courts of the State of New York in May, 1888, and that he was a member of the — is a member of the Association of the Bar of the City of New York, having been admitted to such association in 1894.

Mr. Stanchfield.— That is conceded.

The Chairman.— No objection.

Mr. Kellogg.— That he was appointed a Justice of the Supreme Court on May 22, 1911, and at the following general election was elected for the term of 14 years.

Mr. Stanchfield.— That is also conceded.

The Chairman.— No objection. What was that date of the appointment?

Mr. Stanchfield.— May, 1911.

Mr. Kellogg.— May 22, 1911. Then I ask if the gentleman, for the respondent, will concede that the statement attributed to Justice Cohalan which was printed in the public press set forth on pages 22, 23, 24, 25, 26 and 27 of the printed proceedings of this Committee was issued by his authority and direction?

Mr. Stanchfield.— Does that contain the whole of that statement?

Mr. Kellogg.— Yes, that is all of it, as I understand it, whether or no it is the entire statement, we make the concession. I haven't had time to examine it with that in view.

The Chairman.— There would be no objection if it were found it didn't contain the entire statement?

Mr. Kellogg.— Certainly.

The Chairman.— All right.

Mr. Kellogg.— John A. Connolly.

John A. Connolly, a witness called by Mr. Kellogg, having been first duly sworn by the Chairman of the Committee, testified as follows:

Mr. Stanchfield.— May I inquire, before the examination proceeds, whether or no this Committee has determined as to the hours you expect to sit?

The Chairman.— We will end at about 12:30 and reconvene at 2 o'clock, and adjourn at 5 o'clock; and 10 o'clock to-morrow morning we will meet from 10 to 12:30 and from 2 to 5 until otherwise ordered by the Committee.

By Mr. Kellogg:

Q. What is your name? A. John A. Connolly.

Q. Where do you live? A. 251 West 91st street, New York City.

Q. Where were you born? A. In Cold Spring, on the Hudson, Putnam county, New York.

Q. What is your age? A. I was 51 years of age on June 26th past — this year.

Q. 1913? A. 1913.

Q. What has been your occupation? A. Since 1883 I have been in the heating and ventilating business. From that time on continuously till March 1, 1910; and then for a brief period with the Thompson-Starrett Company, from June 15, 1911, to the 1st day of October, 1912.

Q. What has been your occupation since then, Mr. Connolly? A. From the 1st of October until the 3d day of January, I was not employed — I had no regular occupation.

Q. Since the 3d of January, 1913, what has been your employment? A. I have been employed by the Press Publishing Company.

Q. What was the business of that concern? A. It is the publication of a newspaper or newspapers.

Q. What is the name of the newspapers? A. The World.

Q. The New York World, as we call it? A. Yes, sir.

Q. Have you at any time in your life been sick,— seriously ill? A. Yes, sir.

Q. At what age? A. In February, 1882, I was 19 years of age.

Q. What was the nature of that illness at that time?

Mr. Stanchfield.—We object to that as irrelevant, incompetent and improper testimony at this time. We are here, if this Committee please, to try these issues. There is no conceivable theory upon which that could be proper on direct. There might be some reason if we saw fit to introduce testimony as to his condition on the cross. But whether a man has had an illness before he was 21 years of age, upon these issues, could not have the slightest reasonable bearing.

Mr. Kellogg.— If your Honor please, we may as well come to an understanding here and now. What I understand this Committee is here for is not to try anybody or take sides on this question. I, as counsel, am not doing it. I presume this is a matter

of investigation, and I think when the chief witness is on the stand, that it is entirely proper to look into his history. That is the purpose I have in mind in asking him the question.

The Chairman.— Objection overruled.

By Mr. Kellogg:

Q. Mr. Connolly, you were stating something about your illness at the age of 18, did you say? A. At the age of 19.

Q. State it? A. Why, during the summer and fall of 1881 I was apprenticed to learn the plumbing trade. The village of Cold Spring was noted at that time —

Mr. Stanchfield.— I insist that he answer the question.

Q. I think you are wandering — A. I am not wandering.

Q. Just state the answer to the question as to what the trouble was.

The Chairman.— Strike that answer out.

The Witness.— I had malaria in a virulent form.

Q. Were you at about that time an inmate of any State institution, that is what I am coming to? A. Why, I believe I was committed to the Hudson River State Hospital at Poughkeepsie on February 2, 1882.

Q. When did you leave that institution? A. In August of the same year, namely, 1882.

Q. I would like to ask you a little more in detail as to the nature of your present employment, or the employment which has existed since January 3, 1911, with the New York World. What do you do? A. My regular employment will be renting agent for the Pulitzer Building.

Senator Blauvelt.— Strike that out.

The Chairman.— Mr. Connolly, we can't hear you here. Speak a little louder, please.

Mr. Kellogg.— So that the last gentleman over here (indicating) can hear you too.

Mr. Stanchfield.— I think counsel ought to inquire if it is a written contract, and if it is, we ought to see it.

Q. Have you a contract in writing with the Press Publishing Company? A. I have.

Q. Have you it here with you? A. No, sir, it is down in the hotel.

Q. Will you produce it later in the day? A. I will.

Mr. Kellogg.— Do you want me to ask the contents of it generally, or just ask for its production?

Mr. Stanchfield.— No, I would like to see the contents of it, whatever it may be.

Q. Mr. Connolly, for a number of years were you connected with the Victor Heating Company? A. For ten years.

Q. Do you remember what year that connection commenced? A. In April, 1900.

Q. That was the time of the incorporation? A. That was the time of the incorporation, yes, sir.

Mr. Kellogg.— I offer a certified copy of the certificate of incorporation.

The Chairman.— Do you offer that in evidence?

Mr. Kellogg.— Yes, I do.

The certificate of incorporation of the Victor Heating Company was marked Plaintiff's Exhibit 1.

Q. Who were the officers or persons who acted as officers of that company, starting with its organization, down for the next four or five years, what changes occurred in the management? A. In 1900 I was elected president. Mr. Victor Williamson was elected treasurer and vice-president, I believe.

Mr. Stanchfield.— Who did you say, Mr. Connolly?

The Witness.— Victor Williamson, and George O'Hanlon, secretary. That continued from say the first day of May, 1900, up to some time in February or March, 1901, when Victor Williamson resigned, and it became necessary to elect another director.

J. Bennet Southard, of Putnam county, judge and surrogate of that county, was elected a director.

Mr. Kellogg.— Mr. Connolly, will you speak louder? They can't hear you.

The Witness.— I thought I was taking very loudly. Who can't hear me?

The Chairman.— It is a very large chamber.

Mr. Kellogg.— Talk to me. I will sit over here.

The Witness.— All right. I was at the change.

Q. The substitution of Southard for Williamson? A. Yes. Then it ran along until May, 1904, when O'Hanlon got out and took a position with a rival concern, leaving me practically alone, as the only practical man of the company.

Q. What was the nature of the business of this company, what did it do? A. The erecting and installation of heating and ventilating apparatus and power plant.

Q. Did it manufacture the apparatus, or merely install it? A. It merely installed.

Q. Did you have regular books of account? A. We did.

Q. Can you state what those books consisted of generally? That is, to state the different books that were used in the business of this concern? A. There was a ledger and a cash book, a journal, a cost book, petty cash book, a specification press book, a letter press book, and bill press books.

Q. Did you have check books? A. We certainly did.

Q. Stubs? A. Yes, sir.

Q. Did you keep a day book? A. Well, as far as the cash and journal was concerned, I would consider that a day book.

Q. Who were the bookkeepers of the concern, down to June, 1909? A. Well, Mr. O'Hanlon kept the books until he left in 1904, and the books were not very well kept from that time till, I think December, or rather January, 1905. I had an office boy who was bright and ambitious, and he undertook to keep them for that period of time.

Q. What was his name? A. As I recollect it, his name was Andrew Thoma.

Q. Who succeeded him? A. Charles G. Wylie. I might say, Mr. Kellogg, in May, 1904, I called in a certified public accountant, Mr. Philip B. Gaynor, who went over all of the books, and opened up a system for me, and recommended Mr. Charles G. Wylie, whom I later employed.

Q. How long did Mr. Wylie continue in the employ of the

Victor Heating Company? A. From that time on until March 1, 1910.

Q. Prior to the year 1904, did you, or this corporation of which you were president, the Victor Heating Company, do any business with the Bureau of Public Buildings and Offices of the City of New York? A. No, sir.

Q. Did you, or this corporation of which you were president, do any business with the Bureau of Water Supply, Gas and Electricity, of the City of New York? A. Prior to 1904?

Q. Prior to 1904? A. No, sir.

Q. How long have you known Justice Daniel F. Cohalan? A. April or May, 1897.

Q. State briefly the nature of your acquaintance with him? A. I believe I was formally introduced to Mr. Daniel F. Cohalan at an uptown club, and from the time of our introduction, we saw a great deal of each other.

Q. Well, were your families intimate with each other, or was your acquaintance one of an intimate social nature, or of business? A. It was sort of social nature, if you call club life social.

Q. Did he at any time act as attorney or counsel for you prior to 1904? And if so, to what extent? A. Why, in one case, in 1898, I consulted with him, as he acted for me in a personal matter.

Q. And did you at that time pay him for his services? A. I did.

Q. In what manner, that is, I mean by check or by cash? A. By check — by three checks.

Q. That account was closed prior to 1904? A. It was.

Q. Can you state how much in all you paid him? A. One hundred and five dollars.

Q. During these days prior to 1904, subsequent to your introduction to Judge Cohalan, did you talk to him about his political interests and his political power and position? A. We talked politics a very great deal, he and I.

Q. Did he state anything to you in that regard?

Mr. Stanchfield.— Won't you fix the time first?

Mr. Kellogg.— Prior to 1904; I will have the witness fix it, if there is any such time.

Mr. Stanchfield.— Please do so.

Q. Please fix as to date anything you are about to state as to any statement Judge Cohalan made to you in regard to his political powers, and his political position? A. Well, he was not very active in Tammany Hall in 1897 or 1898, as I recall it, or 1899 or 1900; but after that he began to have power.

Mr. Stanchfield.— I ask to have that stricken out.

Mr. Kellogg.— I consent.

The Chairman.— Strike that out.

Mr. Stanchfield.— He is called upon for conversations, and I don't object to the conversations, if he will give them.

Q. Perhaps we don't all understand each other. The rules of evidence require that you state what Judge Cohalan told you, that is what I am trying to ask you. A. I understand.

Q. Anything you recall in words or substance, you tell the Committee what he told you, not what you heard from outsiders. A. I remember meeting him the night that Mr. Murphy was formally declared leader, and where it was settled upon, I believe down in the Grand Union Hotel, at a meeting of the leaders.

Q. Do you recall the year? A. Why, I believe that was the spring of 1902.

Q. What did he state to you at that time? A. He stated to me that Mr. Murphy had been picked out as leader.

Q. Did he say anything to you at that time about himself, that is the important matter here?

Mr. Stanchfield.— I submit that he ought to tell what the conversation was, without suggestion.

Mr. Kellogg.— That is what I am asking him for.

Mr. Stanchfield.— It ought not to require the assistance of you, Judge, or counsel, to elicit that.

Mr. Kellogg.— I submit that in my examination of the witness, I have not been suggesting answers to him.

Mr. Stanchfield.— He ought to be able to tell what the conversation was.

Mr. Kellogg.— I think he will if you don't get nervous about it.

Mr. Stanchfield.— I am not nervous in the slightest degree.

The Chairman.— Continue, gentlemen. State the conversation, Mr. Connolly.

Q. What did Judge Cohalan say about himself? A. What did he say about himself?

Q. As to his position in his party? A. Well he was — he told me that he was friendly with some of the East Side leaders, and that he was chairman of the General Committee of a certain district on the East Side, of which James J. Frawley was leader.

Q. By "District," what kind of district do you mean, or did he say? A. Well, that was an Assembly District, as I understood it.

Q. At what time did he tell you that he was chairman of the Assembly Committee of his district, in what year was it? A. Why I think it was 1902 or 1903.

Q. State any further conversation that you recollect as to his statements as to his positions in his party, or in any organization of his party? A. Are these conversations you are asking me now?

Q. Yes, conversations with Judge Cohalan. A. Well, it is stretching my recollection a great deal to tell exactly conversations during the year 1902 or 1903.

Q. Don't stretch it. A. I recall in the mayoralty campaign in 1903 that he and I met very often, and he was at the notification ceremonies at the Hoffman House, in which Messrs. McClellan, Grout and Fornes were notified of their nomination, and he introduced me to George B. McClellan on that day, and that was the first time I ever met him,— Mr. McClellan.

Q. Had he at that time to your recollection ever informed you as to whether or not he was on the Law Committee of Tammany Hall? A. Why, I understand that —

Q. Only from him, Mr. Connolly, it he didn't tell you that, it is not competent, and I do not ask you that? A. Oh, he has told me that he was a member of the Law Committee.

Q. Did you see him frequently during the mayoralty campaign?

Mr. Stanchfield.— Hadn't you better fix the date, Judge?

Q. Yes, when, Mr. Connolly? A. Why, I think it was in 1903, in the fall of 1903.

Q. Did you have any conversation further with him, that you recollect, in that McClellan campaign of 1903? A. Yes, one very distinct conversation.

Q. Can you fix the time more definitely than I have? A. Well, that was immediately after the election of Mayor McClellan in New York, in 1903, and he told me that he was a candidate for Corporation Counsel of the city of New York, and he and I had many conversations in relation to that office up to and including the day that Representative or Congressman McClelland announced the appointment of John J. Delaney, from Washington, as his corporation counsel, and he seemed —

Mr. Stanchfield.— Not what he seemed.

Q. Not what he seemed, anything he said, or the substance of it? A. I was in his office the day he got the information over the phone from Thomas C. O'Sullivan, who was also a candidate, I judged from his manner, if that is competent.

Mr. Kellogg.— I think that is hardly proper.

The Chairman.— Strike that out.

Q. If you can produce anything he said, I don't want anything unless it is something personal. A. Well, he pounded his desk, and he said, "I will be corporation counsel, some day, of this city."

Q. Did you have any talk that fall with Judge Cohalan prior to the 1st of January in regard to the incoming administration? A. I did.

Q. State it. A. In December, 1903, I told him that I would like to get some steam fitting work from the borough president's office or any other department that he thought he could help me with. That inasmuch as we had gone through a strike and business had been bad from May until October I was casting around looking for work and I felt from what I knew of politics generally that he had political influence and that he could get me some work.

Mr. Stanchfield.— Now, is that —

Mr. Kellogg.— Conversation of Judge Cohalan.

Mr. Stanchfield.—Well, I presume it is, but your version of it.

The Witness.— The first part was a conversation, Mr. Stanchfield.

Mr. Stanchfield.— Then the last part.

The Witness.— Well,—

Mr. Stanchfield.— Just read that answer.

Mr. Kellogg.— Let us strike it out and start all over again.

Q. You left the conversation and made some remarks of your own. Start all over again and give the conversation. A. Can the stenographer continue until I stop him?

Q. You are not giving the conversation now. A. Let him read the first part. The first part was the conversation.

Mr. Kellogg.— Read the answer and when you finish the conversation, strike out the rest of it.

The Chairman.— Read the questions and answer.

(The stenographer read the questions and answer as follows):

"Q. Did you have any talk that fall with Judge Cohalan prior to the 1st of January in regard to the incoming administration? A. I did.

"Q. State it? A. In December, 1903, I told him that I would like to get some steam fitting work from the borough president's office or any other department that he thought he could help me with. That inasmuch as"—

The Witness.— Strike out that, "that inasmuch as."

Mr. Stanchfield.— Strike out the last.

The Chairman.— Strike it all out.

Assemblyman Levy.— Strike out how much?

Mr. Stanchfield.— "I told him I knew from politics."

Mr. Kellogg.— There is just a sentence left in there. Read it again please.

(The stenographer read the answer as follows):

"In December, 1903, I told him that I would like to get some steam fitting work from the borough president's office or any other department that he thought he could help me with."

Senator Brown.— The record should show it is stricken out.

Mr. Kellogg.— That is to be left in, what was read.

The Witness.— He replied, Mr. Kellogg, that he would look into it.

Q. Then what followed in the way of conversations between yourself and Justice Cohalan at that time? A. Why, at the next meeting which was very shortly afterwards, he stated he thought he could get some work, but before getting it it would be necessary to have 50 per cent. of the stock of the corporation — Victor Heating Company, and I replied that I thought that was rather strange. It was a novel experience to me but that I would submit the matter to the Board of Directors of the—

Q. What percentage did you say? A. I said 50 per cent. of the stock. That I would submit the matter to the Board of Directors.

Q. Did you subsequently have a conversation with Judge Cohalan? A. I called a meeting of the Board of Directors, and that meeting —

Q. It would not be proper for you to state what happened in his absence but you must come back to your next conversation with him after the meeting? A. Well, I told Mr. Cohalan that we had talked the matter over and that the better way to settle it would be to have the directors meet him, and he replied "I will not meet anybody except you, Commissioner."

Q. Well, prior to that time did you have any talk with Judge Cohalan in regard to calling a meeting of your board on the 50 per cent. of the stock suggestion that you say Judge — I answer I told him that I would submit it to the Board of Directors.

Q. You told him you would? A. Yes, sir.

Q. Did you? A. I did.

Q. And what action did they take?

Mr. Stanchfield.— Wait a minute. I object to that as hearsay, incompetent and improper.

Mr. Kellogg.— I will show it was communicated to Judge Cohalan, Mr. Stanchfield. I think we had better take it in its order.

The Chairman.— Overruled.

Mr. Kellogg.— If not, I will move to strike it out myself.

Q. What action did they take A. That we would try and have a meeting with them and go over it again with him and when I communicated that to him he replied.

Q. Well, directly, I want to ask you, did you communicate to Judge Cohalan this action of the board of directors? A. Well —

Mr. Stanchfield.— He is starting to state what was said.

Q. State what was said? A. Well, he said that he would not meet them. He would not meet anybody but —

Q. After you had the meeting of the Board of Directors then you saw Judge Cohalan again after you had your meeting? A. Yes, sir.

Q. Please state what happened at that conversation between you and Judge Cohalan, from the beginning, what you told him and what he told you? A. I told him that we did not look favorably upon it; that we had striven very hard to build up this business and if he got 50 per cent. of the stock he would practically have it in perpetuity and he would share not only in city work that he might get through his political influence, but he would also share in the profits of the private work. "Well, then," he said, "If I don't get the stock and the privilege of having a man in there why I will have nothing further to do with it, Commissioner."

Q. Why did he call you Commissioner, do you know? A. In 1908 I was appointed by Jackson O. Dykman as Commissioner of Estimate and Appraisal on water-shed lands in Westchester and Putnam counties and served for two years and a half.

Q. Follow that up as to the next conversation you had with Judge Cohalan in regard to this matter of city contracts? A. Mr. O'Hanlon and I talked over the situation very carefully in our office, and we finally got up —

Mr. Kellogg.— I don't think that is pertinent.

Q. Just get to Judge Cohalan, what you told him? A. I mailed a letter to Judge Cohalan, and a few days after I called at his office and I asked him if he had got a letter. He said, "Yes, come along with me over to the Borough President's office in the City Hall and I will see if I cannot get you an order."

Mr. Kellogg.— Have you that letter, gentlemen, that the witness refers to?

Mr. Stanchfield.— We never had any such letter, Judge Kellogg.

Mr. Kellogg.— Well, the fact is you haven't it now.

Mr. Stanchfield.— No, we haven't it now and we never had it.

Mr. Kellogg.— I want to submit, if you haven't it now, that I may proceed to secondary evidence.

Q. What was in that letter?

Mr. Stanchfield.— I object to it on the ground that no proper foundation has been laid for its introduction.

Mr. Kellogg.— Shall I call the defendant and ask him if he has got it? A subpœna has been served to produce that.

Mr. Stanchfield.— That is entirely another question. We will take care of that when we get to it. I submit a foundation has not been laid for the introduction of parol testimony as to that letter, and if Judge Cohalan is called to the stand and we permitted him to take the stand and he denied he had received such a letter, that would not lay a foundation for the introduction of parol testimony as to its contents.

In the first place, they must produce the man that wrote the letter, if he is available and accessible.

Mr. Kellogg.— I understand the rule to be —

The Chairman.— The objection is sustained for the time being. Lay your foundation.

Q. Did you see this letter, Mr. Connolly? A. Yes, sir.

Q. And do you know its contents in substance; do you know its contents? A. I know its substance, yes.

Q. And did you say you saw Judge Cohalan after the letter, after you saw the letter? A. After I saw the letter and after I mailed the letter.

Q. And did you speak to him in regard to it? A. I did. I asked him if he had got a letter from me.

Q. Now I ask the witness what was in the letter?

Mr. Stanchfield.— Now I make the same objection.

Mr. Kellogg.— I will ask him one more question.

Q. What did Judge Cohalan say about it when you asked him if he had received the letter? A. He said he did and I asked him if it was satisfactory, and he said, "Yes, come on over with me to the Borough President's office and I think I can get you an order."

Q. What happened then? A. He and I went over to the City Hall together. We went upstairs on the second floor. He left me in the ante room and in about five minutes he emerged from some private office in the Borough President's suite and said "An order will be mailed. I thought I could get it to-day for you, John, but it will be — I could not. It is not quite ready but it will be mailed to you in a very few days."

Q. How long was this after the letter was mailed by you, this going to the Borough President's office? A. I don't think it was over 48 or 72 hours.

Q. Now, I ask him what the contents of the letter was?

Mr. Stanchfield.— I object to the question, if the Committee please; no foundation has been laid for it, and if there is the slightest doubt about that I would like to ask the witness a preliminary question. I should not make this objection if I did not feel that I was strictly within the rules of evidence.

The Chairman.—All right; ask the question.

By Mr. Stanchfield:

Q. Was there a copy made of that letter, Mr. Connolly? A. There was.

Q. And where was the copy placed? A. In the letterpress book.

Q. And that was one of the books of this corporation? A. It was.

Mr. Stanchfield.— That is all for the moment. I renew my objection. No foundation has been laid for the introduction of that testimony.

Mr. Kellogg.— The point being that there is a letterpress copy which is better than oral evidence?

Mr. Stanchfield.— He says that a letterpress copy of this letter appears in the books of the corporation, the Victor Heating Company.

Mr. Kellogg.— He said it was put in.

Mr. Stanchfield.— The way to prove this letter is to produce this book.

Mr. Kellogg.—We will do it, but ask the question first.

Mr. Stanchfield.—You won't, except over my objection.

The Chairman.— Proceed.

By Mr. Kellogg:

Q. You say the copy of this letter was in a letterbook? A. It was.

Q. What became of it? A. Of the —

Q. (Interrupting) Of the copy of the letter that was put in the letterbook? A. Later on, when O'Hanlon, a stockholder and officer of the company became disgusted with the arrangement —

Mr. Stanchfield.—(Interrupting) I ask to have that stricken out.

Mr. Kellogg.—"Disgusted with the arrangement" is quite proper to strike out.

Q. What about O'Hanlon? A. O'Hanlon left, and a few days after he left I was served with a summons and complaint by him, calling for a dissolution of the firm.

Q. Yes. Well, we are anxious about this letterpress copy; that is what we are trying to find out about. Now, what became of it? A. I took the letterpress copy out of the book and handed it to Mr. Daniel F. Cohalan on a Broadway car, after he had returned from the St. Louis National Convention in 1904. I told him — of course he knew about the —

Q. (Interrupting) What you told him is better.

Mr. Stanchfield.—What we want to know is what you told him.

A. I told him that O'Hanlon was ugly, that that could be seen from the nature of the complaint, and I didn't know what trouble he might make for him, and he crumpled it — this tissue paper copy of this letter that had been mailed to him, and crumpled it up in his hand, and he said, "I am glad you have got it; if it was discovered, it would be a case for the Grand Jury."

Q. What did he do with it then? A. That I do not know.

Q. Now, I ask the contents of the letter?

Mr. Stanchfield.— Now, I ask Judge Kellogg to produce this letterbook from which the witness testifies that he tore this letter.

Mr. Kellogg.—We have got several books here, Judge Stanchfield. We have got the one with this letter, I think.

Mr. Stanchfield.— I suppose the witness ought to know, he tore it out; perhaps he will tell you.

Mr. Kellogg.— Perhaps he will.

Mr. Stanchfield.— I said I want you to produce the letterbook, and I said I supposed the witness ought to know what book it is.

Mr. Kellogg.— Maybe I will try to have it for you.

Mr. Stanchfield.—Yes, if you will.

Q. Now, Mr. Connolly, I don't know whether this is the book or not (counsel passes book to witness). You want to look at it because you are on the stand under oath; and if it is not this one, I will try and find some other one. I show you that book —

The Chairman (Interrupting).—What is the date of that?

Mr. Kellogg.— It says, "Letters, No. 6, July 23, 1903, to July 30th, 1904."

The Witness (After examining book).— I would say that this was the book.

Mr. Kellogg.— Well, now, Mr. Stanchfield, I don't think it has pertinency at this time, but as you have asked for it, I will give it to you.

(Mr. Kellogg passes book to Mr. Stanchfield.)

Q. Now, I ask for the contents of the letter. A. I only know —

Mr. Stanchfield (Interrupting).— Now, just a moment.

The Witness.— Oh, I beg your pardon.

Mr. Stanchfield.— The book —

The Chairman (Interrupting).— Just a minute, Mr. Stanchfield. What was the date of that book?

Assemblyman Levy.— Put it on the record.

Mr. Stanchfield.— I am intending to do so. The book that the witness produces is marked "Letters, No. 6, July 23, 1903 to July 30th, 1904," and the last letter in it is dated July 30, 1904, and the last page in the book is page 492. I don't suppose I have any right to cross examine at this time.

Assemblyman Levy.— Is the letter of July 30, 1904, Mr. Stanchfield, on page 492?

Mr. Stanchfield.— Yes, sir.

The Witness.— Can I —

Mr. Kellogg (Interrupting).— No, wait a moment. I don't know what Mr. Stanchfield wants to do about that. Do you further object to the question?

Mr. Stanchfield.—There is no further objection.

The Chairman.—There is no further objection. Go ahead, tell what the contents of the letter was.

Q. Yes, I want to ask him first as to where it was torn out of this book? A. Well, it was in the book — that letterpress book — I won't swear absolutely that it was that book.

Q. But that is your best judgment? A. Well, it was probably a prior book.

Mr. Stanchfield.—Well, then, I will reinstate, in the light of that evidence, my objection. The witness had testified as I understood him at first, that that was the book from which it was taken.

The Witness.— I did not, Mr. Stanchfield; I said I thought so.

The Chairman.— He said he thought that was the book.

Mr. Stanchfield.— May we get just what he did say? I don't mean to do so intentionally, but I will apologize if I misquoted the witness.

Assemblyman Levy.— He said he will say that is the book, as I recall it.

Mr. Kellogg.— It seems to me that that has nothing to do with the discussion. I produced that book for Mr. Stanchfield's edification, because he wanted to see it. Now, if you want me to produce some more —

Mr. Stanchfield (Interrupting).—It was not produced for my edification; it may have been produced for my education and my elucidation, because I am trying here a litigation, and I want to know about that letter. The witness did testify, if I am correct, that it was the book from which this letter was taken.

The Witness.— You just apologized; I said I thought.

Mr. Stanchfield.— I said if I was in error, I would apologize.

The Witness.— I suppose the best way is to go back and get my exact answer.

Mr. Stanchfield.—That is precisely what I would like to have done. I want the stenographer to read what the witness said with reference to that letter, so that if I am in error I will apologize for it; if I am correct, I don't think I will apologize.

The Chairman.— Repeat the answer, Mr. Stenographer.

(The stenographer thereupon read the answer referred to by the Chairman as follows):

"I would say that this was the book."

Mr. Stanchfield.— Now, what could be more explicit? If there is any apologizing done, I think the witness should apologize to me.

The Chairman.— Well, we will proceed with the case.

Mr. Stanchfield.—Although that I do not ask.

Mr. Kellogg.— Everything is ready for further progress, then?

Q. Did I understand you to say that you saw this letter? A. Why, such a letter was written.

Mr. Stanchfield.—(Interrupting) Now, wait a minute. I object to that on the ground that no foundation is laid for its introduction. Now, I want this Committee to understand that I am not making this objection in a frivolous way. If I believed for a moment that such a letter as that had ever been written or received by this correspondent, I would open wide the door, and let them make the proof; but the man that wrote the letter —

Mr. Kellogg.— How do you know what was in the letter until he tells us? I haven't heard what was in the letter.

The Chairman.— Now, just a minute. What was the last question asked?

(The stenographer thereupon read the question and answer referred to by the Chairman as follows: Q. Did I understand you to say that you saw this letter? A. Why, such a letter was written.")

Mr. Stanchfield.— I ask to have that stricken out; that is not responsive.

The Chairman.— Strike it out.

The Witness.—Yes, I saw the letter.

Q. Did you dictate this original? A. I did.

Q. I understood you to say you mailed it? A. I did.

Q. And that a letterpress copy was made in the book, in some book? A. It was.

Q. And that copy was delivered to Justice Cohalan, and he crumpled it up in his hand on a Broadway car? A. Yes, sir.

Q. And that is the last you ever seen it? A. That is the last I have ever seen of it.

Q. I ask for the contents of the letter?

Mr. Stanchfield.— I renew the objection upon the ground that he has not, by proof, established the necessary preliminary foundation to make it legal and competent evidence upon this trial.

Mr. Kellogg.— He mailed it, dictated it, saw it, and gave it to him, and talked with him about it. I don't know what the ingenuity of this high counsel would ask for, in addition to that.

Mr. Stanchfield.— I think, if the Committee please, and with due respect, that this man is compellable, before this testimony is admitted, to produce the letterbook from which he says he tore that letterpress copy, he says it is in existence.

The Witness.— May I inject something, Mr. Stanchfield?

Mr. Stanchfield.— Not now.

Mr. Kellogg.— That is a new rule on me. I have never heard of it.

Mr. Stanchfield.— Well, if it is novel and exciting and new, I am very glad to entertain you professionally.

Mr. Kellogg.— You have discovered something surely.

Mr. Stanchfield.— Can there be any question about the length to which the cases go, with reference to the technical foundation necessary to prove the contents of the document claimed to have been lost, destroyed or turned over to the possession of the other side? Is it conceivable for a moment that a man would mutilate a record and take from it a particular letter, and turn it over to somebody, and say that I am not entitled to have produced the original book from which the witness tore that letter?

We challenge here every step of the way that there was such a letter in existence. The man that wrote it is Mr. O'Hanlon and the witness is alive and can be produced here.

The Chairman.— Have you anything to say?

Mr. Kellogg.— I merely say I have complied with all the rules establishing the competency of the evidence as to this witness, and it is a matter of cross-examination to determine as to whether it is to be believed or not, that is a matter of subsequent consideration and as to its competency when I show that the letter was destroyed by the defendant — that the letter was delivered to the defendant and he has not produced it.

Senator Wagner.— Have you the book in your office or in your possession from which this letter was extracted?

Mr. Kellogg.— I think I have. I looked for it and I handed it to this witness —

Senator Wagner.— He said he could not swear that was the book.

Mr. Stanchfield.— Certainly.

The Chairman.— The chair will rule for the time being that he overrules the objection of counsel.

Q. You may state the contents of that letter, Mr. Connolly. A. I can only state the substance, Mr. Kellogg.

Q. All right, proceed. A. Why, it briefly consisted — it was addressed to Daniel F. Cohalan, 271 Broadway, New York, and it briefly stated that we would allow him 55 per cent. of the net profits of the city business that he brought into us.

Q. Had that been preceded by any conversation between you and Cohalan in regard to that figure? A. No, sir; the conversation took place between Mr. O'Hanlon and me.

Q. I didn't ask you that. Did you state to Mr. Cohalan other than in writing at that time, in regard to the percentage? Did you have any conversation with Cohalan? A. The receipt of the letter would be the first intimation that it was to be 55 per cent.

Q. First intimation that the Judge would get? A. Yes, sir.

Q. And then this transaction followed that you have described, the going to the borough president's office? A. Yes, sir.

Q. Now, in this action that O'Hanlon brought against your company, did Judge Cohalan represent you or the company? A.

He represented the company. I employed him, as president of the corporation.

Q. Who was the borough president of the borough of Manhattan? A. At that time?

Q. Yes. A. John F. Ahearn.

Q. Was he elected that fall or had he been serving at that time if you remember? A. He had been elected in the fall of 1903.

Q. Did you have any conversation with Judge Cohalan in regard to Ahearn prior to the time you went over there with him? A. Well, I spoke about getting work in the borough president's office,— I knew it was an important department.

Q. I mean what did you say to Judge Cohalan, if anything, or you to him, in regard to that?

Mr. Stanchfield.— You mean in addition to what he has already testified?

Mr. Kellogg.— I didn't understand he had testified to anything in connection with that.

Mr. Stanchfield.— Yes, he has.

Q. Well, then I ask you in addition to that. A. Any conversation that Mr. Cohalan had about Mr. Ahearn.

Q. Yes, I ask you if he had any conversation with you about Mr. Ahearn, the borough president elect? A. Oh, that he was an east side leader and was powerful, and that he had a private secretary named Bernard Downing whom he knew very well he told me all those things.

The Chairman.— Who told you that?

The Witness.— Mr. Cohalan, Daniel F.

Q. After this date that you went over to the office of the Bureau of Buildings, what happened in connection with city work? What did you receive? A. Within a very few days after the call of Mr. Cohalan and myself an order came in the mails addressed to the Victor Heating Company, 2295 Broadway, New York; and I immediately dictated a letter to John F. Ahearn, Borough President, and thanked him for the receipt of the order.

By the Chairman:

Q. Now, Mr. Connolly, I don't know whether you stated the date or not, at about what date did this occur? A. Why, I think

it was the latter part of January or the early part of February, to the best of my recollection.

Q. What year? A. 1904.

By Mr. Kellogg:

Q. I show this witness what purports to be a letterpress copy of a letter and ask him if that will refresh his recollection as to the date that he received that order and his acknowledgment of it. (Book handed witness).

Mr. Stanchfield.— Is that the letter to Ahearn?

Mr. Kellogg.— That is the acknowledgment. This is the letter to Ahearn.

Q. Does that refresh your recollection as to when you wrote that letter? A. It does.

Q. When? A. February 6, 1904.

Q. Just look at the entire letter. I am asking you when you got the order, not when you received the letter or wrote the letter. A. I must have received the order on the 6th or the 7th of February because I was —

Q. It states the 30th of January there, doesn't it? A. It says "Your valued requisition dated January 30th."

Q. Which you didn't receive until some days later? A. I didn't receive it until some days later, I would judge, because I would be very careful to make an immediate response to any order that came in from that source.

Mr. Kellogg.— There is no objection to this letter as I understand, in regard to its competency. Perhaps it is not primary evidence as yet.

Mr. Stanchfield.— I don't think it is but it don't amount to anything and I don't care anything about it.

Mr. Kellogg.— "February 6, 1904. John F. Ahearn, President Borough of Manhattan, City Hall, New York. Dear Sir: Your valued requisition dated January 30th reached us by mail today chargeable to account of supplies or repairs including public baths and comfort stations 1904. We shall hold ourselves in readiness to give any orders during the current month our immediate attention. We thank you for the same and remain very truly yours, Victor Heating Company." I think that those words are erased (showing same to Committee).

Senator Wagner.— May I ask a question: Is that letter indexed?

Mr. Kellogg.— I don't think there is an index.

Mr. Stanchfield.— Yes, it it indexed, Senator.

Senator Wagner.— Mr. Chairman, may I ask Mr. Kellogg if the letter which the complainant states was destroyed, was indexed also?

Mr. Stanchfield.— It was not.

Mr. Kellogg.— I have not asked him that question yet. Do you want me to ask him that question?

Senator Wagner.— Yes.

Q. I will ask you if that letter press copy of that letter to Judge Cohalan which you say was destroyed, was indexed to your knowledge?

Mr. Stanchfield.— Let us see it in the book if you think that it is.

Mr. Kellogg.— I don't think it is but some gentleman of the Committee wanted that question asked and I was complying with his request.

The Chairman.— The letter has been admitted in evidence. Proceed, Mr. Kellogg.

Mr. Kellogg.— I was merely complying with a request of one of your number, your Honor.

By Mr. Stanchfield:

Q. Go ahead and answer. He asks you a question. He asks you if you think it is indexed? A. I thought you objected to it.

Q. No, I withdraw my objection. A. This particular letter that was —

Q. Yes. A. I don't think it was indexed.

Assemblyman Levy.— That is, the letter that was afterwards crumpled up on the Broadway car by Judge Cohalan was not indexed in your letter book?

The Witness.— The letter that was crumpled up on the Broadway car was not indexed.

By Mr. Kellogg:

Now, following that time, did you from time to time perform work for the Department of Buildings and Offices of the City of New York? A. Yes, sir.

Q. From what time to what time? A. Why, during the years 1904 and 1905.

Q. And after that or to what amount, Mr. Connolly. What was the total amount of the work.

Mr. Stanchfield.— Between what dates, Judge?

Q. Yes, Judge Stanchfield wants you to give the dates a little better. When was the first work done? A. I think in March, 1904, March or April.

Q. When was the last work done? I am speaking now of the Public Buildings Department solely. A. The last work done for that department?

Q. Yes, please. A. During the years of 1904, 1905 or later?

Q. 1904, 1905 or 1906? A. There was work done in 1904, 1905, 1906, 1907 and 1908 I believe.

Q. During all those years? A. Some work; it didn't amount to much in the last three years.

Q. What was the amount of work during the years 1904 and 1905?

Mr. Stanchfield.— While you are on that won't you also ask him if he didn't do work in 1909?

Q. Judge Stanchfield wants me to ask you in that connection whether you did work in that connection in 1909? A. I don't think I did.

Q. I ask you myself, what was the amount of work performed in 1904 and 1905? A. Why, I think it was something like $5,000 or $6,000, that is each year.

Q. Have you got any memorandum here from which I can refresh your recollection as to the exact amount? A. I have; there is some memorandum.

Q. What is it?

Senator Brown.— Might I not take the letter book which was said to have a leaf torn from it?

Mr. Kellogg.— The letter book that there was something torn out of the book.

(Book handed to the Senator).

Assemblyman Goldberg.— I mean I would like a chance to look at the book, he claims he does not know whether it was taken out of that particular book whether that is the particular book.

Q. I show you a paper which one of the gentlemen who is representing the Bar Association of the City of New York has handed to me with the suggestion that it might refresh your recollection as to the amount of work done for the Department of Public Buildings and Offices during the year 1904 and 1905? A. During the year —

Mr. Stanchfield.— Wait a moment. He didn't ask you for its contents. He just asked you to look at it and see whether it refreshes your recollection.

Mr. Kellogg.— The question is, whether, after looking at it, is your recollection refreshed so you can testify as to the amount.

Mr. Stanchfield.— He hasn't said he could not testify as to the amount without looking at it.

The Witness.— Why, in the two years it apparently amounted to —

Mr. Stanchfield.— Wait a moment. He is not asking for the amount.

Q. I am asking you to look at the paper, not testify as to what it contains, but after looking at the paper is your recollection refreshed so you can tell us whether as to the amount of work done by your company for the Department of Public Buildings and Offices of the Borough of Manhattan ? A. It is.

Q. How much did you perform?

Mr. Stanchfield.— Wait a moment before you answer. May I see the paper?

Mr. Kellogg.— Certainly. (Handing paper to counsel.) I don't know but what there is something private on the back of it; but the front part of it I was referring to.

Mr. Stanchfield.— I was looking at the whole of it.

Mr. Kresel.— Mr. Chrystie knows. Is there anything there we ought not to see?

Mr. Chrystie.— No.

Mr. Kresel.— Well, all right, then.

Mr. Stanchfield.— May I ask the witness a question with reference to this paper, if the committee please?

The Chairman.— Proceed.

By Mr. Stanchfield:

Q. You have been handed a paper —

Mr. Kellogg.— You did not identify it in any way.

The Chairman.— Have it marked for identification.

The Witness.— It has an exhibit number on it.

Mr. Stanchfield.— It has an exhibit number on it, Bar Association Exhibit No. 24, dated June 18, 1913.

Mr. Kellogg.— Better mark it.

Mr. Stanchfield.— Have this paper marked for identification by Judge Kellogg.

(The paper referred to was marked Complainant's Exhibit 2, for identification.)

Q. Mr. Connolly, calling your attention for a moment to Exhibit 2 for identification, being paper you just had in your hand, by whom was that prepared? A. Under instructions from me to my bookkeeper, Mr. Wiley.

Q. And the figures upon it are the figures of Mr. Wiley? A. Well, it is —

Q. I mean it is his work? A. It is his work; yes, sir.

Q. In other words, he is the man you testified was your bookkeeper? A. Yes, sir.

Mr. Stanchfield.— That is all for the moment, Mr. Chairman.

By Mr. Kellogg:

Q. I ask him now, after having looked at that paper, marked for identification Complainant's Exhibit No. 2, if he can state as to the amount of work done for the Department of Public Buildings and Offices of the Borough of Manhattan in the years 1904 and 1905? A. About $11,000, as I recall it.

The Chairman.— The Committee will stand adjourned until 2 o'clock. All witnesses subpœnaed will be here at 2 o'clock.

Whereupon, at 12:33 P. M. adjourned to 2 P. M.

AFTERNOON SESSION, 2:11 P. M.

Present: Parties as before.

The Chairman.— The Committee is ready to proceed.

Mr. Kellogg.— At the session this morning, by permission of the respondent I introduced in evidence constitution and by-laws of the Association of the Bar of the City of New York which at that time were not physically present. I have them here now and ask to have them marked in evidence.

The Chairman.— Any particular parts?

Mr. Kellogg.— Just the constitution and by-laws which commences at page 51 of this book and ends on page 72.

The Chairman.— That is all that is necessary to put in the record?

Mr. Kellogg.— 51 to 72 inclusive.

The Chairman.— That is all that is necessary to put in the record.

Mr. Kellogg.— Yes. I don't want it copied into the record either.

The Chairman.— No part.

Mr. Kellogg.— I want to have them introduced as an exhibit in evidence but it need not be copied into the record so far as counsel on this side of the table are concerned.

Papers referred to marked Complainant's Exhibit No. 3.

John A. Connolly recalled.

Direct examination continued:

By Mr. Kellogg:

Q. Mr. Connolly, I have been asked by member of the Committee to inquire of you if you can fix with more definiteness the date at which this letter which you say was copied in the latter part of the letter book was delivered to Judge Cohalan? A. Why, I think it was in the last half of January or the early part of February.

Q. Of what year? A. 1904.

Q. I call your attention again to this letter book we had this morning which seems to end with page 492 and is marked, as then stated upon the record, Letters No. 6, July 23rd, 1903, to July 30th, 1904, and I ask you if you can now state with any greater definiteness as to whether or not in your opinion that was the book from which this copy of a letter was torn? A. That being the current letter book of that period I should say this was the letter book and I copied it in the back of the letter press book because I considered that at some time I would have to take it out anyway.

Mr. Stanchfield.— I ask to have that stricken out.

The Chairman.— Strike out from the word "because".

Mr. Kellogg.— Is that stricken out, your Honor?

The Chairman.— What was that last statement?

(The stenographer thereupon read the last answer of the witness).

The Chairman.— You make a motion to strike that out?

Mr. Stanchfield.— I ask to strike that out.

Mr. Kellogg.— I oppose that.

The Chairman.— Motion denied.

Q. Were there any — prior to the sending of the letter were there any other conversations that you had with Judge Cohalan relative to the amount which you say was to be paid by percentage or stock or otherwise than you have stated this morning to me on your examination here? A. You mean prior to the sending of that letter?

Q. Yes, sir. A. Why, my best recollection, Mr. Kellogg, is this: that he turned — or we turned it down absolutely —

Mr. Stanchfield.— Well, now, wait. He says conversations.

Mr. Kellogg.— Yes, conversation.

Q. State what you said to him, if anything, about this question of what interest he should have in these city contracts; anything that you said to him; not what happened between you and your associates? A. Well, it was entirely on the stock transaction prior to the receipt of that letter, as I recall.

Q. Well, after the receipt of the letter, what conversations, if any, did you have? A. Why, I asked him if he had got the letter and he said yes; I asked him if it was satisfactory, and he said yes.

Q. Now, up to that time, or when we adjourned this morning, we were engaged in the question of contracts which you had with the building of public offices? A. Yes, sir.

Q. Did you subsequently have some talk with Judge Cohalan in regard to the contracts that you were getting and in regard to an attempt to get contracts from other offices? A. From other departments.

Q. From other departments? A. Yes. Judge Cohalan or Mr. Cohalan, rather, at that time brought up that question himself in regard for the work for the department of water supply, gas and electricity.

Q. At about what time? A. Why, I think it was in August, 1904.

Q. What did he say to you? A. He said that he could get me work in the department of water supply, gas and electricity, but it would be necessary to pay 10 per cent. on the face of the bills for somebody; and I asked him if that was in addition to the 55 per cent. of the net profits, and he said to me that it was, and I then told him that I did not care to bother about it, and he replied from the information that he had gleaned it was about $20,000 worth of work a year in it and that I might as well take it as long as I was looking for work and it would increase the total amount of business that the company was doing; and under those circumstances I stated, well, I assumed I will make an attempt at it anyway; he then called up the department of water supply, gas and electricity and stated that there was a man coming over and stated that it would be necessary to tell him that things were satisfactory on that basis.

Q. Where did this conversation occur, Mr. Connolly? A. At his office, 271 Broadway.

Q. Now, proceed there. A. The gentlemen came over and Mr. Cohalan introduced me to him; his name was Alfred J. Johnson, and he was, as I understood it at the time —

Mr. Stanchfield (interrupting).— No, what was said, Mr. Connolly?

The Witness.— Oh, I beg your pardon. Why, Mr. Cohalan introduced me to him and he said, this is the man that will do

that work in the department, that repair work on engines and boilers, pumps, etc.; and he — Mr. Cohalan stated he is willing to pay that percentage, and in fact he mentioned it, 10 per cent. on the bills; and Johnson acted —

Mr. Stanchfield (interrupting).— No, just what he said.

The Witness.— What Johnson said?

Mr. Kellogg.— They don't want you to say how he acted; anything that he said you can tell.

The Witness.— Oh, I see. Well, Johnson stated I believe that he believed the matter to be fixed up. He then left the office and after 5 or 10 minutes Mr. Cohalan put on his hat and told me to come along with him, and we went to the offices of the department of water supply, gas and electricity in the Park Row building, on the seventeenth floor, as I recall it — no, I am mistaken there; I think it was the nineteenth floor.

Q. That doesn't make any difference. A. At that time?

Q. What happened when you got there? A. Why, he brought me right into Commissioner Oakley's office, and introduced me to Commissioner Oakley.

Q. When you say "he," you mean Cohalan? A. Judge Cohalan brought me into Mr. Oakley's private office, and introduced me as the man which is for the Department work; and Mr. Oakley said, "Well, I have known Mr. Connolly for a great many years." Then Mr. Oakley spoke about the — about my mechanical skill in that regard, and I told him the kind of work I had been doing for a great many years in and about New York. And he said, "Well, we will see what can be done for you." Then he took me — Mr. Cohalan took me across into Commissioner Goodwin's room and introduced me to Commissioner Goodwin — Deputy Commissioner Goodwin, and that is the first time I ever recall meeting Mr. Goodwin. And Mr. Cohalan stated that from now on Mr. Connolly was to do that work that Worthington and the Blake people had been doing, the repair work; and that was about the entire substance of the conversation, as I recall it.

Q. Did you know the Worthington and Blake concerns in your business, were you aware that there were such concerns? A. Why yes, I knew Henry R. Worthington, that the was the name of the corporation.

Q. Were these concerns which had been doing business previous to the time of your advent, were they standard concerns in that business? A. They were manufacturers and builders of the pumps and engines, but not of the boilers.

Q. Now after that — are they concerns of well known reputation in your business?

Mr. Stanchfield.—Well, I object to that as irrelevant and immaterial.

The Chairman.— Sustained.

Q. You had known of them for some years, had you not? A. Well, I knew that they were subsidiaries of the International Pump Company.

Q. After this conversation, or series of conversations which you have described in the Department of Water Supply, Gas and Electricity, what happened in regard to receiving orders for city work, and performance of work for that Department? A. As I recall it, it took a little time before an order came to me, and I believe I called upon Mr. Oakley and spoke to him about it; and he said, "Well, of course, possibly the engines haven't broken down, you can't expect to get something, John, when there is nothing to do; but I have the matter in mind, and will send you an order." And the order was sent shortly afterwards, which I acknowledged the receipt of.

Q. What do you do in regard to performing the work, tell the Committee generally what you did, when it was done and where it was done? A. Why, we got an order to repair pumps down at Tottenville. We also got an order to do the same thing at the 98th street pumping station in the borough of Manhattan and also 179th street in the same borough.

Q. What was the nature of this? A. And after the Democratic State Convention in Saratoga, of that year, orders came in very fast after that for Department —

Q. After the fall of 1904? A. 1904.

Q. Did you render bills for these various items of work, which you have described in both these departments? A. Yes, sir.

Q. During the years 1904 and 1905, what was the aggregate of those bills? A. You mean of the Department of Water Supply, Gas and Electricity?

Q. Yes, each of them. Confine your answer to either one at a time? A. I believe, as I recollect, the Department of Water

Supply, Gas and Electricity run up very high, was run up to $37,000 and some odd dollars; and the Bureau of Public Buildings and Offices in those two years, about $11,000.

Q. I show you this Exhibit 2, and ask you if you can give me more exactly the amount of those orders which you performed for those two departments (handing Exhibit 2 to witness).

Mr. Stanchfield.— That is Exhibit 2 for identification.

Mr. Kellogg.— Yes.

The Witness.—Water Supply, Gas and Electricity, $37,562.59; Public Buildings and Offices, $11,302.22; making an aggregate of $48,864.81.

Q. What was the form in which these bills were rendered, Mr. Connolly?

Mr. Stanchfield.— Well, have you got them there?

Mr. Kellogg.— Have you got an original bill that you can select, Mr. Chrystie?

(Mr. Chrystie selects original bill).

Mr. Stanchfield.— That is all right. I did not get the significance. If that is all, I have no objection to it.

The Chairman.— Go ahead.

Q. What form were the bills you had in, Mr. Connolly? A. They were made out in triplicate, and the original order was attached to the bills in triplicate. That was a rule of the city.

Q. I show you one of these which seems to be dated March 31, 1904, and ask you if that is a sample of the method — if that is a fair sample of the bills produced for the work which you have described to the Committee? (Handing same to witness).

Mr. Stanchfield.—As to form.

Mr. Kellogg.—As to form.

The Witness.— Yes, that is it.

Mr. Kellogg.—You might mark that. I offer it in evidence, but don't care to have it copied upon the record.

Mr. Stanchfield.— Let me look at it just a moment, will you? (Paper referred to marked Complainant's Exhibit 4).

Q. Now, Mr. Connolly, in this sample that has been introduced, we have first an order, then a verified bill, and then a yellow sheet which — I would call it a voucher — is that right? A. No, I would not call it a voucher.

Q. Well, call it yourself, then. What are the three papers I have here. First the order? A. It is a form that the city has, in which there is an affidavit attached, I believe by the Commissioner in charge.

Q. And the certificate of the auditing officers? A. Yes.

Q. And the receipt at the bottom? A. Well, is there a receipt of the Victor Heating Company on the bottom? I did not think that.

Q. (Hands paper to witness). A. Yes, that is correct.

Q. And that is the reason I called it a voucher. That combined paper was the third of three papers which went up to make each of these what we would call claims; an order, an itemized bill, and then the certificate and voucher at the end? A. Yes.

Assemblyman Levy.— May I look at that Exhibit, Mr. Stanchfield?

Mr. Stanchfield.— I would ask the Judge if he would not read that. I think the Committee ought to know something about that order.

(Mr. Kellogg shows order to Committee).

Mr. Stanchfield.— Suppose you read it to them all so they can hear it. It appears on the face of that order, that it is to be done to the satisfaction of the President of the Borough. I don't know whether that is on all of them or not.

Mr. Kellogg.— Some are from other departments. I did not mean to say they were all on this Department of Public Buildings. Some are on the Department of Water Supply, Gas & Electricity. I will get one of those, if you want to see them.

Assemblyman Levy.—Were all the orders of the Borough President's office written in that form, that is the question to be done to the satisfaction of the President of the Borough?

Mr. Stanchfield.—That is what I was calling to the attention of the Committee. Suppose you put the form of the order on the record so we will have it.

Mr. Kellogg.— The order which my friends desire me to have read into the record if it meets with the approval of the Committee I will read.

Mr. Stanchfield.— I think if we had one there it might save time later on, because we would not have to refer to exhibits.

Mr. Kellogg (Reading).—

"New York, *Mar.* 2, 1904.

"Victor Heating Company, 2295 Broadway:

"Please furnish and deliver to Various P. B. & O. chargeable to Bureau of Public Buildings and offices 'Supplies and Repairs,' including Rivington Street Bath necessary labor and material to do such iron work, etc. in the various public buildings and offices in care of this Bureau as may be required and ordered during the month of March, 1904.

"To be done to the satisfaction of the President of the Borough for and on account of the President of the Borough of Manhattan, and send Bill with triplicate and this Order and the Receipt attached to Room No. 1802, Offices, Commissioner of Public Works.

"I certify to the necessity of the above work or supplies, and that the expediture therefor has been duly authorized and appropriated.

"A certificate of the necessity of the above expenditure was placed on file in this Department before the expenditure was incurred.

JOHN F. AHEARN,
President of the Borough of Manhattan.
WILLIAM DALTON,
Commissioner of Public Works."

I offer also one from the other department in order that the variation between the two departments may be cleared up, the Department of Water Supply, Gas & Electricity, August 21, 1905.

Mr. Stanchfield.—You had better read that into the record too.

Q. Is that the same as to form as to the orders of itemized bills and the certificate and voucher for the work done for that Department (handing paper to witness)? I am not speaking of the correspondence that precedes it, I am speaking of the three papers? A. Yes, that is the regular order form.

Mr. Kellogg.— I offer it in evidence; I do not offer these letters; I will take those off.

Mr. Stanchfield.— I have not looked at those, I do not know what they are and if they have anything to do with it.

Mr. Kellogg.— This order is in the following language:

"Department of Water Supply, Gas & Electricity, Nos. 13 to 21 Park Row, New York. August 25th, 1905. Victor Heating Company: Please furnish and deliver for the Borough of Manhattan and the Bronx necessary labor and materials to repair engines, pumps, boilers, coal conveyor, &c., in 179th Street Pumping Station authorized by resolution of the Board of Aldermen, adopted May 23, 1905, to the satisfaction of the Head of Bureau and the Deputy Commissioner of Borough, chargeable to Maintenance Croton Water System, for and on account of the Department of Water Supply, Gas and Electricity, and send bill with triplicate and this order and the receipt attached to Room No. 1536, this office.

I certify to the necessity of the above work or supplies, and that the expenditure therefor has been duly authorized and appropriated.

A certificate of the necessity of the above expenditure was placed on file in this Department before the expenditure was incurred.

Requisition 760, 8/16, 1905.

Order No. 3062.

FRANK J. GOODWIN,

Deputy and Acting Commissioner of Water Supply, Gas and Electricity."

Received in evidence and marked Complainant's Exhibit No. 5.

Assemblyman Levy.— Mr. Chairman, may I ask a question?

The Chairman.— Mr. Levy.

Assemblyman Levy.— Judge Kellogg, I would like to know for the purpose of the record, if all the orders drawn on the Department of Water Supply, Gas & Electricity contain the words that appear upon this order, "To the satisfaction of the head of Bureau and the Deputy Commissioner of the Bureau?"

Mr. Kellogg.— I think that is so, isn't it? Is that so, Mr. Connolly?

The Witness.— Is that the public buildings?

Mr. Kellogg.— Judge Levy wants to know if this sentence that appears on there, " To the satisfaction of the head of Bureau and the Deputy Commissioner of Bureau," appears on all of these orders that you had in this work?

The Witness.—(After examining paper).

Q. I am asking you if that was in all of the orders, if you recall it? A. I cannot recall that, but it seems to be the regular form; I cannot say that every order that I received had that printed line.

Mr. Stanchfield.— Mr. Guthrie says that it will be conceded that they do contain that, and that is subject to correction.

Mr. Kellogg.—Yes, the orders are here, and that is a fact, although he doesn't know it.

Assemblyman Levy.— I understood Mr. Connolly to say just a second ago that that printed line was in all the orders of the Department of Water Supply, Gas and Electricity, as I read it.

Q. Is this the form — is this the same form as all of your orders, so far as you can distinguish any difference, and in your opinion is that the same as all of the other orders? A. It certainly is; whether the exact wording is in there or not, I don't know, but I can tell if it was held up within four or five feet of me, whether it was a Department of Water Supply order.

Assemblyman Levy.— Well, the printed matter is identical, isn't it, with all the other orders?

The Witness.— I never noticed any other change.

Mr. Kellogg.— As a matter of fact, if it is of interest, it is there, and they are all here, and there can be no dispute about it, although he cannot recall it, the exact phraseology in each case.

Q. These bills which have been introduced in evidence, one against the Public Buildings Department, and the other against what I will call the Water Supply Department for brevity, contain items of labor and material, do they not? A. Yes, sir.

Q. Were those the cost prices paid by you? A. They were the cost prices with the profit added.

Q. That is what I mean. What was the profit added? A. Oh, it varied, Mr. Kellogg.

.Q From what to what? A. Are you talking now of the gross profit on labor and material alone?

Q. I would like to have you tell us all about it; I don't know how is the best way to do it; give us an idea; if you have to itemize it, do it as briefly as you can; if there is a difference in the material and labor, state it. A. Why, as I recall it, it was a lot of labor, and especially boilermakers' time; there was a rule of the Union that there were no boilermakers' helpers; in other words, a boilermaker and his helper was charged at mechanic's prices, and that would raise the profit if there was an abundance of boilermakers' work; if it was steamfitting work labor, it would run, oh, I don't know, from 35 to 40 per cent.; something like that, as I recall it.

Q. How would it run if it was boilermaking work? A. Well, if it was nearly all repair, it would run up I should think between 45 and 50 per cent.; now, that is as I recall; I am hazy on some of it, naturally, because I haven't taken up the subject lately.

Q. But each of these items, for instance, this bill that we have here, is a sample, and starts off with a lot of labor of different people, charged at certain rates per day? A. Yes.

Q. You paid these men, I suppose, a certain wage, and then you charged the city an increase on that wage, which you paid out, as your profit for engineering this work, or for managing it? A. That is correct.

Q. And that profit was from 35 to 55 per cent., depending upon circumstances? A. Oh, sometimes it ran down to 20 per cent.

Q. Well, then, we will say from 20 to 55 per cent.; is that a fair statement of the extremes? A. Oh, from 20 to 50 per cent., yes, that would be the minimum, I should say, and the maximum.

Q. And then the materials which I see in here, what was the profit charged on those, on the average? A. Well, Mr. Kellogg, there was,— the Comptroller was very careful —

Q. (Interrupting.) Well, I suppose he was. But what I want to know is what the profit was? A. And there is a report that I have from the Chief Engineer — we were allowed, as I recall it, 20 to 25 per cent. over list prices on materials.

Q. Now, this Exhibit No. 2 for identification, which you have

held in your hand several times, what is that paper? (Counsel passes paper to witness.)

Mr. Stanchfield.— Before we get on something else, can't we have the number of those orders put upon the record?

Mr. Kellogg.— You can have just as many of them as you want. Would you rather have me do it, or hadn't you better wait till you get to it? I think I can get it in another way.

The Witness (After examining paper).— That was a statement I prepared for the two years' work.

Q. Does that include all of the work up to that time? A. In those two —

Q. For those two departments? A. Yes, sir; as I recall it; I think I was very careful at the time.

Q. And that shows the orders received each month from each department, and the profit which you were allowed upon those for each month during 1904 and 1905? A. Yes, sir.

Mr. Kellogg.— I offer it in evidence.

Mr. Stanchfield.— Well, now, where are the books that form a basis of that tabulation?

Mr. Kellogg.— Right here.

Mr. Stanchfield.— Are the books — may I ask a question?

Mr. Kellogg.— Certainly.

By Mr. Stanchfield:

Q. Are the books here, Mr. Connolly, from which that statement was prepared? A. I think they are.

Q. And this is the same statement that you told me this morning had been prepared, not by you but by Mr. Wylie under your direction. A. That is correct.

Mr. Stanchfield.— Well, I suppose the books ought to be introduced. Of course I don't mean spread them upon the record, but no tabulation or summarization made from books is competent until the books themselves that are the sources of the supply, or the source of the evidence, are in.

Mr. Kellogg.— Of course, that is a matter of right. But it is going to be a very long, hard thing to put all these books in; the books are all here for verification.

Mr. Stanchfield.— That is precisely what I want. I am not going to ask you to prove it item by item, but I want the books put in evidence, because I want them left in the charge of the Sergeant-at-Arms, so that we may have a right to inspect them. That tabulation, if the Chairman please, of course is not competent until the books are in.

The Chairman.— We understand that; counsel doesn't make any claim that they are.

Mr. Kellogg.— The fact is, Mr. Chrystie tells me, that some of these books are not here; that all of the books that he has had left with him are here; the absence of the other books would have to be explained. The explanation is, as I am informed, that the sheriff levied on the property and took all that he had. So far as we have the books here, I will produce them.

Mr. Stanchfield.— Let Mr. Chrystie enumerate what books are here.

Mr. Chrystie.— This item entered in it is May 16, 1904, and I see it runs —

Mr. Connolly.— I might add Mr. Kellogg, that those items were checked from the bill books and I believe the bill books are here.

Q. The bill books are all here, are they? A. I think so.

Mr. Kellogg.— Then let us have those.

Mr. Stanchfield.— Let him get through with the statement.

Mr. Chrystie.— The witness just stated that the bill books are the statement. If that is so I think the bill books are all that is necessary.

Mr. Kellogg.— This book seems to have started in 1900, Mr. Stanchfield, and it runs down into this period because I find here in December, 1904 —

Mr. Stanchfield.— Just offer in evidence what books you have got because I would like them left in the custody of the sergeant-at-arms.

Mr. Kellogg.— These two books then, bills books Nos. 1 and 2 I offer in evidence in connection with a summary which I have here.

The Chairman.— That is already in, isn't it?

Mr. Kellogg.— It is not in as an exhibit. It is marked for identification and I want it in as an exhibit.

Mr. Stanchfield.— There must be other books required to make up that statement. The profit would not appear in those bill books that is upon that tabulation.

By Mr. Kellogg:

Q. Now, Mr. Connolly, this Exhibit 2 we were speaking about. You say that the two bill books contain the items which made these aggregates by month as to these bills against the Bureau of Public Buildings and Offices and the Department of Water Supply, Gas and Electricity? A. If they are in that period, yes.

Q. Yes, they are in that period. A. Yes, that is correct.

Q. Now, there is a column here in this exhibit which states, "Profit." Did that come from these books or did it come from something else? A. It came from the cost book.

Q. Where is that? A. Why, one of them is — one of them I have got, taking part of the beginning and the others are the —

Mr. Kellogg.— This cost book I have in my hand I will ask to have it marked by the stenographer and I will ask to offer it in evidence unless there is objection to it.

(Book referred to marked Complainant's Exhibit 6.)

Q. Marked Complainant's Exhibit 6. It seems to commence August 6, 1902, and goes down to — what time, Mr. Connolly, I cannot get the year here. I see the months and the days. (Handing book to Mr. Connolly.) A. It apparently began August 6, 1902 — the last page of this book that has costs on is page 175.

Q. What date is that? A. It hasn't a date. The first date that I get is on page 158, July 29, 1904, and then on page 159 —

Assemblyman Cuvillier.— I would request the Chairman to ask the witness to speak louder. We cannot hear at all.

The Chairman.— They cannot hear you. The Committee is complaining. It is very hard to hear in here.

The Witness.— It is apparently from August, 1902, to August, 1904.

Q. Now, at the time this Exhibit 2 for identification was prepared did you have other cost books? A. Yes, sir.

Q. Have you looked for those since? A. I have looked for them, yes.

Q. And are you able to find them? A. I am not.

Q. Where did you look for them? A. When I got them from the Sheriff's hands I tried to get them in some semblance of order and packed them up in some packing cases. They have been knocked around considerably.

The Chairman.—When did you get that from the Sheriff?

The Witness.— I think it was the fall of 1910.

Q. How long before that had the Sheriff taken possession of your books? A. In March, 1910.

Q. And all the books that were returned to you by the Sheriff you have produced here, have you? A. Yes, sir.

Q. Have you been able to get any of the others? A. I have not.

Q. Now you have here what books, Mr. Connolly? First there was a ledger that we spoke of, that is the book that I hold in my hand? A. Yes, sir.

Q. Then the next book, that is the book I have had marked here, which you say stops in 1904, a cost book? A. Yes, sir.

Q. Then there was the two bill books that we have had here, and there was some letter books and several of the books of your concern which you haven't been able to find? A. And some bank pass books and notes receivable and notes payable book and a check stub, stub books.

Q. These are the papers and books which you delivered to the Bar Association's representative? A. Yes, sir; and the minute book of the corporation.

Q. This book that I have here (indicating). A. Yes, sir.

Mr. Kellogg.— These books, gentlemen, are at your access at any time and you may look at them. These are here and any markings you may want to put upon them, you may.

Mr. Stanchfield.— May they not be marked for identification?

(Three books marked Complainant's Exhibit 7, 8 and 9 for identification.)

Letter books Nos. 6 and 7 marked Complainant's Exhibits 10, 11 and 12 for identification.

Personal letter book marked Complainant's Exhibit 13 for identification.

Minute book marked Complainant's Exhibit 14 for identification.

Pass book marked Complainant's Exhibit 15 for identification.

Notes and bills payable book marked Complainant's Exhibit 16 for identification.

Check stubs marked Complainant's Exhibits 17, 18, 19 and 20 for identification.

Mr. Kellogg.— I now offer in evidence Exhibit 2 for identification.

Mr. Stanchfield.— I will not make any technical objection to that but I do not think the foundation has been laid for it.

Mr. Kellogg.— I will go as far as you want me to go with it. It is a long hard trip and it is an accommodation to all of us to get this in as soon as we can.

The Chairman.— What is that?

Mr. Kellogg.—A detailed statement of the items —

The Chairman.— It is a compilation from the books?

Mr. Kellogg.— Yes, and I offer Exhibit 2 for identification in evidence.

The same is received in evidence and marked Complainant's Exhibit 2.

Q. Did you, during the time that this work was progressing, during these years of 1904 and 1905, have any talk with Judge Cohalan in regard to that work? A. Yes.

Q. And during that time did you furnish him with statements in regard to it?

Mr. Stanchfield.— Now just a moment. Where is the statement or a copy of it?

The Chairman.— He has asked him, did he furnish him any?

Mr. Stanchfield.—Well, it calls for a conclusion. Let him answer anyway.

Q. Did you furnish him a paper that you claim was a statement? A. I furnished him with two statements that I recall distinctly, that I handed to him.

Q. When was the first one? A. Oh, I think it was in August, 1904.

Q. Have you a copy of that? A. I have not.

Q. Did you make a copy of it at the time? A. I think I made a carbon copy. It was the first —

Q. Where is that? A. I think it was destroyed.

Q. And under what circumstances?

Mr. Stanchfield.—Well, now, I object to that as hearsay, incompetent and improper.

Q. If you know?

Mr. Stanchfield.—There is no foundation laid for the introduction of that evidence.

The Chairman.— Overruled, for the time being.

The Witness.—What is the question, please?

Mr. Kellogg.— Read the question.

(The question was read by the stenographer as follows: "And under what circumstances, if you know?")

Mr. Kellogg.— It was destroyed?

The Witness.— It was destroyed one evening up in the office of the Victor Heating Company after the suit of the Victor Heating Company against Daniel Cohalan had been settled.

Q. Did you see it destroyed, Mr. Connolly, yourself? A. I did.

Q. Was it a copy of what had been delivered to Mr. Cohalan? A. It was.

Q. By whom? A. By myself.

Q. Can you state the contents of that statement? A. Why, I think it showed —

Mr. Stanchfield.— No, no; he asks you whether you can state the contents of it.

The Witness.—Why, it showed the profits.

Mr. Stanchfield.— Just a moment. You did not ask for the contents.

Q. I ask you whether you can state the contents. Yes or no, if you recall? A. I cannot recall it directly at this time.

Mr. Kellogg.— Have you gentlemen that?

Mr. Stanchfield.— No, we have not.

Mr. Kellogg— You haven't?

Mr. Stanchfield.—We claim we never received it. We never had any such statement.

Q. Can you state in substance the contents of that statement? A. Why, it showed —

Mr. Stanchfield.— Yes or no.

The Chairman.— Just answer the question yes or no.

Mr. Kellogg.— I will put it in this form:

Q. Did you have any conversation with Judge Cohalan after you had furnished him that statement in regard to its contents? A. He was very much —

Mr. Stanchfield.— Just a moment.

Q. You did have a conversation? A. I did have a conversation.

Q. Now, tell the conversation? A. Well, he thought that there should be more profit in the business.

Q. Was there any discussion at that time as to how much was to be paid him? A. It showed $884 and some cents, as I recall it.

Mr. Stanchfield.— He just asked about your conversation.

Mr. Kellogg.— If you take your hand down, this is a very bad room to hear in, and the Committee cannot hear.

Mr. Stanchfield.— I ask to strike out that portion of the answer in which he stated what it showed. He was talking about a conversation of Judge Cohalan to which I made no objection.

The Chairman.— Read the question and answer.

Mr. Kellogg.— I think to save time, I will consent to strike it out, because I think he did go beyond the question.

The Chairman.— Strike it out.

Q. The question is, what was said between you and Judge Cohalan in regard to his share of the profits, if anything, and what was the discussion was between you, if anything, after you delivered to him this first statement? A. He stated he thought there should be more profit from the work that he secured for me, and I explained to him that there were certain rules in regard to profit and those I could not exceed.

Q. In this discussion between you two men, was not the amount of the profit discussed in any way, as to how much was to come to him? A. Yes.

Q. What was said about that, and how much it was, if it was stated. A. It showed —

Mr. Stanchfield.— No, no, what you said, that is the point to it; what was said about it.

The Witness.— Well, he said, " When can I have some money on this statement? "

Q. Did he have a statement with him at the time? A. He had it in his hand, and he looked over it carefully.

Q. And he and you looked at this statement in his hand? A. Yes, sir.

Q. And he asked you when he could have some money on it. What was that statement he had in his hand at that time? A. Why, we were having this conversation as to his amount of the profit.

Mr. Stanchfield.— I object to that on the ground that there is no foundation laid, first, and it is hearsay and incompetent.

The Chairman.— Sustained.

Mr. Kellogg.— Is that sustained.

The Chairman.— Yes.

Q. Was any reference made at the time to the amount, orally, between Judge Cohalan and yourself at that time ? A. You mean orally ?

Q. Yes, aside from what was on the paper, was there any statement made by either you or Judge Cohalan at that time as to the amount of profits he was entitled to receive? A. He felt he was entitled to —

Q. In dollars and cents? A. He stated he thought there should be more profit coming to him.

Q. More profit than what? A. Than the statement showed under the 55 per cent. arrangement.

Mr. Kellogg.— I call upon the defendant to produce that statement which this witness says was in his hand at the time of this conversation.

Mr. Stanchfield.— The defendant says he never received any such statement.

Mr. Kellogg.— And then in that connection I call the attention of the Committee to the fact that the subpoena duces tecum covers that statement, and I urge that secondary evidence is competent to show its contents, in view of the fact that we have shown it in the hands of the defendant, that he does not produce it, and because we are unable to. I do not see how you can bring in the rule of secondary evidence any stronger than that. I think it makes the evidence competent.

The Chairman.— Lay your foundation for your secondary evidence.

Mr. Kellogg.— What form of foundation would you suggest, it being in the hands of defendants, and they don't produce it.

The Chairman.— It is denied.

Mr. Kellogg.— They don't have to concede it. We have a witness on the stand who swears to it, and makes it prima facie evidence. It is competent. As to its rate, that is something to be subsequently considered. It cannot be possible that anything counsel will deny in a lawsuit, makes it incompetent. The minute we have produced prima facie evidence, it becomes competent.

The Chairman.— The witness said a few moments ago, that he did not know the contents of this statement.

Mr Kellogg.— I am merely asking what the statement showed as to the amount of profits due to Cohalan. I am not asking as to the detailed contents of the statement.

Senator Blauvelt.— Have you a copy of it, Judge?

Mr. Kellogg.— We have no copy of it, because he said it was lost or destroyed after this action was settled. I most seriously urge, after a witness on the stand has testified that the original paper was in the hands of the defendant, it makes it entirely competent to show that after he has been subpoenaed to produce it, he has not produced it, and this inquiry is to one item alone on the paper.

Assemblyman Levy.— He has stated he cannot recall the contents of that paper.

Mr. Kellogg.— I am not asking for the contents. I am asking one thing, to wit, the share of the profits due to Judge Cohalan.

Assemblyman Cuvillier.— That is part of the contract.

Mr. Kellogg.— That is all I am asking him. He didn't say he didn't know any of the contents of it.

The Chairman.— Repeat the question.

Mr. Kellogg.— The question is what that statement Judge Cohalan had in his hand contained as to the amount of the profits due to Judge Cohalan.

Assemblyman Levy.— Isn't that a conclusion?

Mr. Kellogg.— What he saw on there.

By the Chairman:

Q. Can you state the contents of that document in Judge Cohalan's hand? A. It was a series of figures on the public buildings and office.

Q. Can you state the contents? A. I did state.

Q. What is that? A. I have just stated.

Q. You can state the contents: A. I have just stated. I cannot recall the exact amounts.

By the Chairman:

Q. I ask you can you state the contents of that paper that was in Judge Cohalan's hand? A. It showed a series of profits.

Q. Not what it related to, but can you tell the contents, what it contained? A. I know it was a statement of profits.

Mr. Kellogg.— You mean as to the exact figures?

Assemblyman Levy.— He is telling what it represented; the question is can he state the contents of that paper?

By Mr. Kellogg:

Q. I think they mean, Mr. Connolly, as to any figures, can you recall any figures or words or characters in that paper, or all of it? A. I recall after the 55 per cent. was figured that it showed $884 and some cents; that was the conclusion of the figure.

Q. Now, I show you a book which says, "Personal, No. 1," which has been marked Complainant's Exhibit 13 for identification, and I call your attention to the two pages of that book which are numbered 497 and 496. (Counsel passes book to witness.) Now, I ask you if that is a copy of a subsequent statement that you delivered to Judge Cohalan (after examining book)? A. It is.

Mr. Kellogg.— I offer it in evidence.

Mr. Stanchfield.— Let us look at it (witness passes book to counsel).

Mr. Stanchfield.— Then before the Committee, may I ask some preliminary questions about that statement?

Mr. Kellogg.— Is there objection?

Mr. Stanchfield.— Yes.

The Chairman.— Proceed.

Mr. Stanchfield.— The pages being offered in evidence are not marked?

Mr. Kellogg.— Not marked separately, but the book itself is.

Mr. Stanchfield.— Better mark these pages.

Mr. Kellogg.— If you like we will do so.

Mr. Stanchfield.— Pages 496 and 497 of Exhibit 13 for identification may be marked Exhibits 21 and 22 for identification?

Mr. Kellogg.— The entire book has been offered in evidence and I now offer these two pages in evidence.

(Two pages referred to marked Complainant's Exhibits 21 and 22 for identification.)

By Mr. Stanchfield:

Q. Mr. Connolly, I call your attention to the fact that the pages in that book up to page 491 and including page 490 are sealed. Does that comprise the portion of it that is sealed, your personal correspondence? A. I believe so, Mr. Stanchfield.

Q. I am not curious about it; I wanted to know just what it was. Now this statement that is offered in evidence begins at the top of page 496, does it not? A. Yes, sir.

Q. Pages 492, 493, 494 and 495 have been torn out of the book, have they not? A. It appears so.

Q. It not only appears so but it is so? A. It is so.

Q. Doesn't it? A. Yes.

Q. Now, on either page 496 or 497 being the two Exhibits 21 and 22 for identification, does the name of Daniel F. Cohalan appear? A. It does not.

Q. Now page 497 being Exhibit 22 for identification, the remaining two pages making up the complete volume have been torn out, have they not? A. I would not say that, Mr. Stanchfield.

Q. There is not a page in the book after 497? A. Yes, but it don't follow that there was 500 pages in the book.

Q. Ordinarily, are not these books made up to have 500 pages?

Mr. Kresel.— They are; here is another book made up exactly like it and it has 499 pages in it.

Q. It does in fact stop with page 497? A. Yes, sir.

Q. Don't you see here the remnants of a page, at least one that has been torn from the book?

Assemblyman Levy.— After page 497.

Mr. Stanchfield.— After 497.

A. Looks so, Mr. Stanchfield.

Q. So that pages both before and after that statement, concededly have been taken out of that book, have they not? A. I am not sure of that part of it, after 497, but it is quite apparent between 491 and 496.

Q. Now, who prepared that statement? A. I instructed my bookkeeper to prepare it.

Q. Who was your bookkeeper at the time? A. Mr. Wylie.

Q. Now when you say you instructed him to prepare it, do you mean by that answer to convey the idea that the typewriting work on these two exhibits is his? A. Yes, and I instructed him also —

Q. Never mind, answer my question? That is his typewriting, is it? A. Yes, sir.

By Mr. Stanchfield:

Q. Is there any date upon it to show when it was put in there, on either of the two pages? A. (Witness examines book). Yes, there is a date, the 21st of April, 1905.

Q. Well, that is the date of some of the work, isn't it? A. Yes, but it was immediately after that —

Q. (Interrupting.) Is there anything on the face of the pages of the book to show when he put that typewriting on those pages? That is what I am interested in? A. Is there any date to show?

Q. Yes. A. No.

Mr. Stanchfield.— That is all. Now, I object to it upon the ground that no foundation has been laid for its introduction.

Mr. Kellogg.— I understood him to say that this was a letter press copy of the document that he delivered to Judge Cohalan.

The Witness.— I said that.

Mr. Stanchfield.— I am not disposed to be technical about the introduction of evidence, as I have once before remarked to this Committee, but it does not follow as a legal proposition because somebody testifies that at some time he gave a man a paper that he has a right to go ahead and introduce secondary evidence of its contents or alleged contents.

Mr. Kellogg.— If it can be the rule that the defendant by objecting can keep out evidence, it is a very serious block to any kind of a lawsuit.

The Chairman.— The objection is overruled. Let us see the book there.

Mr. Kellogg.— Yes; I was going to say, here is a typewritten copy of it; it is rather hard to read the original.

(Counsel passes book and paper to Chairman of the Committee.)

Assemblyman Levy.— Judge, I would like to know why that is not a self-serving declaration?

Mr. Kresel.— He could have put it there yesterday for all we know.

Assemblyman Levy.— Why isn't that self-serving declaration?

Mr. Kellogg.— Do you want me to tell you?

Assemblyman Levy.— Yes, if you can.

Mr. Kellogg.— Because it is a statement made and delivered to the other party to the controversy and discussed with him.

Assemblyman Goldberg.— What proof is there here when that was done?

Mr. Kellogg.— I don't think there is any question about it.

Assemblyman Levy.— Why, Judge, why couldn't a man at any time put it in the book?

The Chairman.— The objection is overruled.

Mr. Kellogg.— May I have that marked for identification, gentlemen? I will give it right back to you.

(The chairman of the committee passes paper to counsel.)

Complainant's Exhibit No. 21 for identification was marked in evidence as Complainant's Exhibit No. 21 of this date.

Complainant's Exhibit No. 22 for identification is marked in evidence as Complainant's Exhibit No. 22 of this date.

By. Mr. Kellogg:

Q. Did you subsequently cause to be prepared and delivered to Judge Cohalan a third statement which is a copy of this one already introduced in evidence and marked Exhibit 2? (Counsel passes paper to witness.) A. (After examining.) Mr. Kellogg, I can't recall that a copy of this third statement was sent to Judge Cohalan, but I do recall sending him a letter —

Mr. Stanchfield (interrupting).— Well now, we do not —

Mr. Kellogg (interrupting).— That is all right; that is the answer.

Q. I wanted to go back to the second statement which is in the back of the book there, and ask you as to when it was copied in the back of the book; fix it as near as you can? A. Between April 21, 1905, and May 22, 1905.

Mr. Stanchfield.— What was the last part of that answer?

The Witness.— May 22, 1905.

Q. Now, you say that subsequent —

Mr. Stanchfield (interrupting).— I want to call to the attention of the Committee the fact that the date immediately preceding that is January 30, 1906.

Assemblyman Goldberg.— That is the reason why I wanted the question answered.

Mr. Stanchfield.— Yes.

Q. Well now, I will ask you, in view of all that has been said here, and I think it is fair, why that was put in the back of the book instead of in its regular order? A. Because I considered it a shady transaction.

Q. Now, you testified, I think, right after lunch to-day in regard to the conversation you had with Judge Cohalan in regard to procuring contracts from the Department of Water Supply, Gas and Electricity. Do you recall that? A. I do.

Q. Did you at some time receive a payment for a bill rendered to that bureau? A. I did.

Q. And how much was it? A. Well, it was originally a disputed bill —

Q. (interrupting). The first bill? A. The first bill that was paid.

Q. Yes, the first bill that was paid? A. And the compromise was fixed —

Mr. Stanchfield (interrupting).— Just wait a minute. Let us see this bill.

(Counsel examines bill in question.)

Mr. Stanchfield.— Go ahead.

Q. Well, did you receive a certain amount of money from the bureau of — A. (interrupting.) I said the bill was disputed, the first bill that was paid; not necessarily the first bill that was rendered but the first bill that was paid was disputed by the — one of the assistant engineers and it was brought to the attention of the deputy commissioner and it was reduced and the reduction brought it to $555.57.

Q. Did you receive that amount of money on it? A. I did.

Q. I show you two checks issued from the comptroller's office drawn upon the chamberlain of the city of New York bearing date January 17, 1905, No. 2110 and 2111. (Counsel passes papers to witness.) I ask you if those were the checks that paid the bill that you are speaking of? A. (Witness examines papers.)

Mr. Stanchfield.— Is that the one that was reduced?

The Witness.— They are.

Q. One of them is payable I notice to some bank? A. Yes.

Q. The $500 one? A. Yes, sir.

Q. For what reason? A. It was assigned to the bank to collect.

Q. And the one of $580 was payable to you? A. Payable to the Victor Heating Company.

Q. I call your attention to an entry in this book which has been marked for identification Complainant's Exhibit 18, which is a check stub-book, and ask you if the entry to which I call your attention, of January 20, 1905, represents the deposit of the avails of this check, which I have previously shown you, of $55.57, made payable to your order (handing witness)? A. Yes, sir.

Mr. Kresel.— May I see the check?

(Same handed counsel.)

Q. I ask you to look at this pass book on the Colonial Bank of New York, and ask you if the entry upon that bank book under date of January 20, 1905, represents the deposit of that check in that bank to the credit of the Victor Heating Company. A. It does.

Q. Now, after the receipt of that check, did you have any discussion or talk with Judge Cohalan as to that payment? A. Yes, sir.

Q. Where was it? A. At his office.

Q. About how soon was it after this talk? A. About January 23d.

Q. State it?

Mr. Stanchfield.— What year?

The Witness.— 1905.

A. I told him that the first Water Department bill had been paid, and under my agreement of 10 per cent., I had brought

down $55.55; and I put it on his flat-top desk. He immediately swept it into the drawer, and said, "If you ever bring any such small change as that into here again, I will take the work away from him."

Q. During these years of 1904, 1905 and the following year, 1906, what payments did you make, or what money did you pay or deliver — not what payments, but what money did you deliver to Judge Daniel F. Cohalan, stating the amounts and the time, as near as you can? A. On April 29, 1904, I secured a $500 bill from the Broadway branch of the New York Produce Exchange Bank, located at Eighty-sixth street and Broadway, and called upon Mr. Daniel F. Cohalan at Bureau A, of Democratic National Headquarters, which was located in an office building on West Thirty-third street. I was ushered into a private office, as I recall it, a back room, and I gave him the bill. He seemed to be pleased.

Mr. Stanchfield.— No, never mind that.

Q. Unless you can tell what he said, you better not characterize it.

Mr. Stanchfield.— I move to strike that out.

The Chairman.— Strike it out.

The Witness.— Well, as I recall it, he had charge of the — oh, I would call it the Irish end of it, the Irish-American end of it, of the campaign for Alton B. Parker, and he called it "Aragh ga chese."

Q. Nobody here understands that, apparently. What is that? A. Well, I don't understand it. I had to question a great many —

Q. What was the word? A. "Aragh ga chese."

Q. Now spell it? A. "Aragh ga chese."

Q. Spell it out, if you can? A. It is a question of euphony with me.

Q. Spell it out as it sounds? A. A-r-a-g-h g-a or g-o-, c-h-e-s-e or c-h-e-e-s-e-. I understand it means, I have got two interpretations of it, it means "Come down with the cash," or "Have you any money." It is Gaelic.

Q. What date was that you say? A. October 29, 1904.

Q. Was this subsequent to the time you had the conversation with Judge Cohalan you have testified to, in which you say he

had a statement on his hand showing a certain amount? A. I did not get the first part of that.

Q. I ask you if this time of payment was subsequent to the conversation you have stated to-day as having had with Judge Cohalan in which he had the statement in his hand which you said you discussed there, showing a certain amount due him? A. The payment of the bill was subsequent to the rendering of the statement to him.

Q. And was there anything said between you as to what that was for, when you gave it to him? A. I told him it was the first payment, part payment on that first statement that I had handed him.

Q. When did you next pay him any money? A. I think it was December 6, 1904; $200, as I recall, at his office, 271 Broadway.

Q. What form was that payment in? A. In cash.

Q. Was there ever any conversation between you and Judge Cohalan as to what form this payment of money should take? A. He always insisted upon cash.

Q. When did you make the next payment? A. On January 20, 1905.

Q. If there is anything that I have got here in the way of receipts that you ought to have to be more accurate, this is a very important matter, and you don't want to make any mistake about it — if there is anything here you are entitled to it to refresh your recollection. A. Well, I am quite clear on it now.

Q. All right; go ahead. A. January 20, I think, I gave, I think, $185, and then, as I have already testified, on January 23, $55.55.

Q. Where was that $185 paid? We haven't got that as to details? A. At his office, 271 Broadway.

Q. In cash? A. In cash; all payments on the commission work were in cash.

Q. Then the payment of January 23, 1905, was the payment of $55.55, which you previously described; that is the same one, is it? A. Yes.

Q. When did you make the next payment? A. In May, 1905.

Q. Can you fix the date? A. I think it was May 22, Mr. Kellogg.

Q. What was that amount? A. One thousand dollars.

Q. Where was it paid? A. At his office, 271 Broadway.

Q. In what form? A. In cash.

Q. What kind of bills? A. I think it was — I am not quite clear on it; I think there were several bills aggregating the sum of $1,000.

Q. Where did you draw the money? A. On this particular transaction?

Q. This $1,000? A. At the Colonial Bank?

Q. From the funds of what concern? A. Well, there were insufficient funds on that day to give him $1,000 and take care of the payroll, the next succeeding payroll; and I had placed a special account to take up the last three of the O'Hanlon notes, which was a part of the agreement when I engaged Mr. Cohalan on that O'Hanlon transaction, and I took that money that day and added it to what I took out of the Victor Heating Company account, and the two sums aggregated $1,000.

Q. When did you make the next payment? A. On August 2nd, 1905.

Q. How much was it? A. $1,000.

Q. In what form? A. In one single bill.

Q. Where did you get it? A. At the Colonial Bank, 81st street and Columbus avenue.

Q. From what funds? A. From the funds of the Victor Heating Company.

Q. When did you make the next payment? A. September 17, 1906.

Q. How much was it? A. $500.

Q. Where was it paid? A. At his office, 271 Broadway.

Q. In what form? A. In cash.

Q. Do you remember the bill or bills? A. I believe it was a single $500 bill.

Q. Where did you get it? A. At the Colonial Bank.

Q. From what funds? A. Funds of the Victor Heating Company, as I recall.

Q. When did you make the next payment? A. November 10, 1906, I believe.

Q. Of what amount? A. $500.

Q. In what form? A. In cash, and I believe a single $500 bill.

Q. Could you tell me where you paid that to him? A. At his office, at 271 Broadway.

Q. Where did you get it? A. At the Colonial Bank.

Q. From what funds? A. From the funds of the Victor Heating Company.

Q. Now at the time of these various payments, did you have any conversation with Mr. Cohalan with regard to them, as to what they were for? A. In regard to them?

Q. In regard to the payments? A. Oh, in regard to the payments?

Q. Yes. A. Oh, he understood —

Mr. Stanchfield.— I move to strike that out.

The Chairman.— Strike it out.

Q. What was said about it, was there any particular occasion that you can remember? A. I have repeated the first one; and the second one was just before Christmas, and we wished each other a Merry Christmas, or something to that effect.

Q. Was there anything said as to what the second payment was, as to that? A. It was the second payment on account of the first statement; second payment on account of the first statement.

Q. When you paid the $185 in January, 1905, was there anything said at that time as to what that was for? A. Yes.

Q. What was said? A. That was the balance of the first statement.

Q. The transaction in regard to the $55.55, you have already detailed at quite length? A. Yes; I don't think you asked me one question, Mr. Kellogg; you will excuse me for suggesting it, but I don't think you asked me where I got the $200 for the second payment?

Q. Where did you get the $200? A. I think in the Broadway branch of the Produce Exchange Bank.

Q. From what funds? A. From the funds of the Victor Heating Company.

Q. Was that in money? A. In money, in bills.

Q. In what form, do you recall? A. I think it was two $100 bills.

Q. Where did you get the $185 from? A. I believe the Colonial Bank.

Q. In what form? A. In cash.

Q. Do you recall the denomination of the bills any more? A. No, I imagine it would be a $100 and $50.

Q. When you paid the $1,000 in May, 1906, what was said in regard to what it was for, if anything? A. It was a pay-

ment on account of the second statement that I had handed to him.

Q. What was said in regard to the second payment of $1,000, which occurred in August, as you say, of 1905? A. Well, I was getting a very large amount of work at the time —

Q. What was said, Mr. Connolly, between you and Judge Cohalan? A. Oh, I think I called him up on the phone and said I had some money for him. He fixed up a time, and that particular day he took me to lunch at the Lawyers' Club, down to the Equitable Building, and he appeared —

Mr. Stanchfield.— No, not what he appeared.

Q. When you paid this money, was anything said about what it was for? A. I told him it was commissions on the work that he was getting for me through his political influence.

Q. What was said at the time of the first $500 payment on September 17, 1906, as to what it was for; what was said? What did you say and what did he say? A. Well, we were not very friendly at that time.

Q. What you said would bear repetition, wouldn't it? A. I went down there to his office —

Mr. Stanchfield.—What was that date?

The Witness.— September seventeenth.

Mr. Kellogg.—We are speaking of September, 1906.

Mr. Stanchfield.— I know, but I want to identify it.

A. I recall I left word in the office where I would be at certain times, that was a practice I had, and while — and when I arrived at his office, I hadn't been there many times during that year, a telephone message came from my office saying to call me up, and it was announced, when I got in his presence, in his private office, and he went out to the man, and said, "Don't you tell anybody that Connolly is here." He said it very gruffly, and I know that I didn't have a very kind feeling towards him when I gave him the $500.

Q. Was there anything said about what it was for when you did give it to him? A. Oh, we had had a row, he had claimed $2,500 —

Q. I will get to that later. I want to get into the various payments seriatim, and I will come by that in a few moments.

The last one was November 16, 1906. What was said at that time between you and Judge Cohalan as to what it was for? A. That was November tenth, I think it was.

Q. In November, 1906, anyway? A. Oh, as I recall, it was a Saturday, and I went down there in a hurry, and he took me into another room, he had some people in there, and I simply handed him the money, and he put it in his pocket, and practically the interview was at an end; not much was said.

Q. How much do these payments aggregate, Mr. Connolly, that you have been telling about? A. $3,940.55.

Q. When they were paid — when these payments were made, were there any entries made on the books of your concern? A. Yes.

Q. In what form?

Mr. Stanchfield.— I object to that unless the books are produced here?

The Chairman.— Objection sustained.

Q. Now you have spoken about these later conversations with Judge Cohalan as not having been pleasant, or something of that sort. Did you have any conversation with him along in that year with regard to this matter of what should come to him, what he was entitled to? A. In the early part of January, the early part of January, 1906, he had a conversation with me in which he stated that there should be $2,500 in it for him; and I told him I didn't believe that I could figure out any such sum, but that I would go into the matter very carefully. That happened one evening when we were crossing City Hall park on the way to the elevated. He said there should be at least $2,500 in it for him.

Senator Wagner.— Mr. Chairman, will you ask the witness to speak up louder, we can't hear him up here.

Mr. Kellogg.— The stenographer will please repeat the answer of the witness, as the members of the Committee back here did not hear it.

(Last answer of the witness read to the Committee.)

Q. Follow along, Mr. Connolly, continue. A. Well, I replied that it was hardly the place to discuss it and that I would come and see him in a day or two and see just what there was in it,

and I recall distinctly that he stated they had figured out the profits and they expected that amount of money; well, I said, Dan, don't you think it very strange that they — and by the way, you have never told me who they are — should start now to figure out profits for me when it was never done before, and I don't know any reason why they should figure out my profits; they have no method of doing it. Well, he said, they know just about what they should have, and he said if I wouldn't give him that sum that he would have to make good; and he saw that I was rather determined about it; I spoke about the campaign contribution to Tammany Hall the November prior; he said then —

Q. (interrupting) What was said? A. He said that he didn't have anything to do with that and that shouldn't figure in it; well, I said, my bills are all tied and there was no method of getting it out. You laid down — you didn't do anything in relation to it although you knew that the bills were tied up; you told me to use my own judgment and I went along and used it and I know that it was necessary to make a campaign contribution after the water department officials were after me. Then he said that he proposed going over to Europe in the summer and that he would need all the money he could get. It finally wound up in his demand on me that it would have to be $2,500 or nothing, and on that we quarreled.

The Chairman.— Let me understand you. This was in January, 1906.

The Witness.— In January, 1906, and subsequently, Mr. Kellogg, I think I sent him a letter in which I told him there were —

Mr. Stanchfield.— Never mind the letter. I ask to strike it out.

The Chairman.— Strike it out.

Q. Subsequent to this conversation which you have detailed, was this Exhibit 2 prepared? A. Exhibit 2?

Q. Yes, it has been marked here Exhibit A. A. Oh, Exhibit 2! This was prepared subsequently to his demand, as I recall it.

Q. I call your attention to various items on the first page of this exhibit which are summed up, added up. I ask you what those items represent?

Mr. Stanchfield.— That is Exhibit 2, isn't it?

Mr. Kellogg.— Yes.

The Witness.— The $940.55 is payments of cash to him. The $2,000 is cash to him. The $1,000 is the campaign contributions. The $209.19 is excess discounts after the bills were all held up, and were not released until after I gave the campaign contributions, and the $931.80 is his share.

Assemblyman Cuvillier.— Mr. Kellogg, through the Chairman, I respectfully call the Committee's attention to page 10, charge 20, where his own statement that in 1906, that any thousand dollars were ever paid at one time — there is no such statement. There were two payments in 1906, one in September, $500, and one in November, $500.

Mr. Kellogg.— Is it something you want me to ask him?

Assemblyman Cuvillier.— Yes.

Mr. Kellogg.— What do you want me to ask?

Assemblyman Cuvillier.— He said he paid a thousand dollars in 1906 for campaign fund. The charges do not so state.

Mr. Kellogg.— He did not claim he paid a thousand dollars to Cohalan in 1906. He claims he paid two five hundred dollars in 1906 and he paid a thousand dollars to Tammany Hall.

Assemblyman Cuvillier.— There is no such charge in the specification.

Mr. Kellogg.— No; it was not paid to Cohalan. We don't claim it was.

Assemblyman Cuvillier.— Then I do not see that it is relevant. Any payment made to anyone but Cohalan would not be relevant.

Mr. Kellogg.— What do you want me to do about it?

Assemblyman Cuvillier.— I ask to have it stricken out.

Mr. Stanchfield.— He has to have that thousand dollars in in order to get anywheres near the 55 per cent.

Assemblyman Cuvillier.— What has the payment of a thousand dollars to Tammany Hall to do with this investigation?

The Chairman.— Well, it is on the record now. We will proceed.

Q. What talk did you have with Judge Cohalan about charging him with $100 which you paid to Tammany Hall? A. About the thousand dollar campaign contribution?

Q. Yes, A. Why, in the latter part of October, 1905, Mr. Joseph W. ————

Mr. Stanchfield (interrupting).— No, he is asking for conversations with Cohalan and nobody else.

The Witness.— I went down to see Mr. Cohalan on a Monday in the latter part of October, 1905, and I told him, he was at a meeting, he was at a meeting of a Commissioner — of an appraisal commission meeting in his office on land in Westchester county, and I called him out of the room into an adjoining room, and I told him that Mr. Prendergast had arrived at my office on the Saturday prior — had left his card, I was out of town, with the stenographer; and then when I reached the office on Monday morning I called up the Secretary of the Water Department, Mr. Prendergast, and he told me —

Mr. Stanchfield (interrupting).— Never mind what he said to you. Did you tell this to Cohalan?

Q. This is what you told Cohalan? A. Yes, and he said that he wanted a campaign contribution and I couldn't get Mr. Cohalan to say anything; he said, now use your own judgment or words to that effect and I went off and used my own judgment; subsequently, when I told him about it, in January, 1906, he said, well, you had no right — you had no business to do it; well, I said I did it.

Q. Do what? A. You had no right to contribute such an amount to Tammany Hall.

Q. What happened then? A. Well, I sent him a letter, as I told you —

Mr. Stanchfield (interrupting).— Never mind the letter unless you produce it. Have you got a copy of the letter?

Q. Have you got the — you wrote a letter to somebody. A. I wrote a letter to Mr. Cohalan.

Q. Under what date? A. Sometime in January, 1906, as I recall it. There is no copy of it.

Q. What were the circumstances under which you wrote that letter? A. Why, I simply told him —

Q. (Interrupting) Don't say what was in it.

Mr. Stanchfield.— Wait a minute, I object to that, if the Committee please, as hearsay and incompetent and no foundation laid for its introduction.

Mr. Kellogg.— I am not asking for the contents.

Q. You wrote a letter at what time, in January, 1906? A. Yes, sir.

Q. Did you enclose anything in the letter? A. I don't believe I did.

Q. Did you have any discussion with him afterwards in regard to the letter? A. No, he wouldn't speak to me the next time he met me; he snubbed me.

Q. Have you got a copy of that letter anywheres? A. No, I wrote it — I wrote it, a personal letter, and mailed it to him and told him that if —

Mr. Stanchfield (interrupting).— Never mind what you told him.

Q. You mailed him a letter? A. I mailed him a letter.

Q. Did you keep any copy of it? A. I did not.

Q. Why not? A. Well, I didn't want it as a record. I only —

Assemblyman Gibbs (interrupting).— What was that answer, please?

The Witness.— I didn't want it as a record.

Mr. Kellogg.— Speak over here to Senator Foley, will you please, as though you were talking to him, and then I guess everyone will hear it.

Will you produce the letter, gentlemen?

Mr. Kresel.— Never had any such letter.

Mr. Kellogg.— What was in the letter?

Mr. Stanchfield.— I object to the question upon the ground that no foundation was laid for its introduction, as incompetent and improper.

Mr. Kellogg.— He says he sent him a letter and he hasn't got any copy of it, and they don't produce it under subpœna.

Mr. Stanchfield.— It is a remarkable experience in one's professional activities and practice, that a witness is allowed to go on

the stand and testify that he has written letter after letter to somebody and kept no copy of it because he was ashamed of its contents or it was a shady transaction or he didn't want a record of it and when the other side emphatically say that they never received such a letter on earth, that a man is permitted to go on and besmirch somebody's reputation.

Mr. Kellogg.— That is a good deal of summing up as to what this witness has done.

The Chairman.— This is the third letter along that line.

By the Chairman:

Q. Did anyone see you write that letter? A. Did anyone see me write the letter?

Q. Yes. A. I don't believe they did.

Q. Did you show it to anyone after you had written it? A. I don't think so.

Mr. Kellogg.— It cannot be possible, speaking of experience on an objection, that denial by the defendant has any weight upon the question as to the competency of evidence; it has much weight as to how much force should be given it after it has been admitted; where a man says he wrote a letter and he hasn't got a copy of it and sent it to the defendant and the defendant doesn't produce it under a subpœna, I think the evidence is competent. For whatever it may be worth in the minds of any of the gentlemen on the committee is a question which I am not now discussing.

Q. Did you mail this letter yourself? A. I did.

Q. Do you remember where you mailed it? A. It was mailed to 277 Broadway.

Q. I know, but where did you mail it? A. Oh, I mailed it — I mailed it at 83d street and Broadway, in the vicinity of my office.

Q. What was the date of that? A. I might say, Mr. Chairman, that I wrote it on a Sunday.

Q. Do you remember the date of it, or when it was, about when? A. I said it was in the latter part of January.

Q. 1906? A. 1906.

The Chairman.— Objection overruled.

By Mr. Kellogg:

Q. Give the contents, Mr. Connolly? A. State the contents of the letter?

Q. Yes, sir. A. Well, I intimated to him — it was intimated in the letter that there was —

Mr. Stanchfield (interrupting).— It isn't what you intimated, it is what you said.

The Witness.— I said in the letter that instead of $2,500 that he was claiming, it was nine hundred and some odd dollars, and that I was willing to arrange to give him a thousand dollars; that was practically the purport of the letter, and that I had thought under the circumstances that I was doing very well.

Assemblyman Gibbs.— Mr. Chairman, I would like to ask the witness a question.

The Chairman.— Mr. Gibbs.

Assemblyman Gibbs.— What was there about that letter that prevented you from making a copy?

The Witness.— That prevented me from making a copy?

Assemblyman Gibbs.— Yes.

The Witness.— Why, it was on a Sunday and I didn't open the safe; I opened my desk. I simply wrote as I felt.

By Assemblyman Gibbs:

Q. Have you got a copybook marked "personal?" A. There is a personal letter book No. 1 here in evidence and I have personal letter books Nos. 2, 3 and 4, I believe.

Q. Don't you keep copies of your personal letters in that book marked "personal?" A. I generally do, but if I write a letter on a Sunday I don't think I would go through all the regular business things.

Q. What makes you say you are so sure it was on Sunday that you wrote that letter? A. What makes me so sure?

Q. Yes. A. Because I know just how I felt about it. I know I left my home and went down Broadway, and opened the office door and opened my desk, and wrote the letter; that is what makes me so sure.

By Assemblyman Goldberg:

Q. Why didn't you make a copy of it, if you were in the office, even if it was on Sunday? A. Because the safe was locked up.

Q. You had the combination of the safe? A. Yes, I had the combination of the safe.

Q. Isn't that the reason, or is it for the reason that you didn't want to make a copy of it, that you didn't want to make a record of it, or whether it was Sunday? A. I said I didn't want to make a record; I didn't make a record.

Q. You said before it was Sunday. You attributed that as the reason? A. I said there were also other reasons besides its being Sunday.

By Assemblyman Cuvillier:

Q. Didn't you think it was important enough to make a copy, a very important matter? A. It was an important matter, yes.

The Chairman.— All right, counsel, proceed.

By Mr. Gibbs:

Q. Just one more question. Didn't you testify a moment ago the reason why you didn't make a copy of that letter was because of the nature of that letter? A. Yes, I said that.

Q. Now, which one of the two reasons is the correct one; which one of the two explanations is the correct one, that it was on Sunday, or because of the nature of the letter? A. Because it was both.

Q. What? A. Both.

By Mr. Kellogg:

Q. Did you at that time, or about that time, in any way call the attention of Judge Cohalan to the method by which you arrived at your conclusion as to the amount which was due him? A. At that time?

Q. How you computed it.

Senator Wagner.—You mean in this letter?

Mr. Kellogg.— I say about the time of that letter — no, outside of the letter?

Mr. Stanchfield.—You mean that letter or a conversation?

Senator Wagner.— In a conversation?
Mr. Kellogg.—Yes.

Senator Wagner.—Whether a letter was written and there was a conversation at the same time?

Mr. Kellogg.— I don't know. I am trying to find out. I don't know what the history of this is. The letter we have got to. I asked if there was any conversation subsequently, and how he got to his result, which he says there was some $900 due him, which was a matter of dispute.

Q. Do you understand my question. I am asking if at any time you had a conversation with Judge Cohalan in which you called his attention to the method by which you arrived at your conclusion as to the amount due him, and what factor you took into consideration? A. Well, he denied the right to put in that $1,000 campaign contribution.

Q. Well, anything else said about — A. Then about the excise discounts, about the bills being all tied up for a length of time, being held up practically.

Q. Now wait a moment. These discounts you speak of being deducted. Is that the item $209.19? A. Yes, sir.

Q. That appears upon his paper? A. Yes, sir.

Q. Did you have any conversation with Judge Cohalan in regard to that deduction and why it was made? A. Why, yes, I told him if it was not for the Atlantic Basin & Iron Works and the president of the Colonial Bank in granting the extensions, that there would not be anything in it for anybody.

The Chairman.— Judge, will you fix the time when this conversation took place? Was it subsequent to the writing of this letter?

The Witness.— No, it was prior to the writing of the letter.

Q. Now, prior to the writing of the letter. What I want to get at is, have you had any conversation with Judge Cohalan shortly prior to the writing of the letter, about a month or six weeks, as to what you were going to charge against him, and what you claimed should be deducted from what you said was due him on your theory? A. Well, we had that general conversation, in which the demand was made practically for $2,500 or nothing. Just

as to the exact conversation, Mr. Kellogg, I can only recall the substance of it.

Q. When did you say anything to him about the $209 that you claimed should be charged to him? A. I didn't claim that I mentioned $209.19. I claimed the excess discounts for carrying the loans and the bills being held up.

Q. Did you say that to him, Mr. Connolly? A. I did say that to him, but I didn't know the exact amount at the time.

Q. What was said about it, about the excess discounts, what was said about that, as to what you were going to do about it, if anything? A. Why, that it was a charge, that it cut into the profits, and that it was a very unsatisfactory way of doing business, to have the bills tied up and held up, and he did not make any move to help me out at all. I had to do my own fighting.

Q. About when was that conversation? A. That conversation?

Q. Yes, about the $200, about the taking out of excess discounts. A. The date that there was a lot said, the $2,500 demand or nothing, was made on me that day.

Q. At the same time? A. The same time.

Q. The same controversy? A. Yes.

Q. What was the date of the letter you wrote to Judge Cohalan stating the amount due him — have you stated that already?

Assemblyman Levy.— The latter part of January, 1906.

Mr. Kellogg.— That is what I understand.

The Chairman.— We have it clear now.

Q. The $1,000 item in Exhibit 2. I ask you if the two papers which I show you, one a check for $1,000 and the other a receipt, represent that item? A. It does.

Q. And that is the item which you charged in this statement to Judge Cohalan, in addition to the discounts, and in addition to the cash paid him, as you say? A. I did.

Q. And that is the way you arrived at your conclusion, after making those deductions, that there was still due him $931.80? A. Yes, sir.

Q. How long after the conversation did you write the letter of January, 1906? A. It was very shortly after.

Q. Can you give the days, the number of days or weeks, or whatever it might be? A. Why, it was between the 20th and 30th of January, I verily believe.

Mr. Kellogg.— I offer in evidence in connection with this No. 2, this item of contribution which he says is contained on it.

Mr. Stanchfield.— I don't see what relation that has.

Mr. Stanchfield.— I don't see what relation, if the Chairman pleases, that has to this controversy.

The Chairman.— That is the $1,000 item?

Mr. Kellogg.— Yes.

The Chairman.— It is not specified in any of the charges presented by the Committee.

Mr. Kellogg.— It explains his payments.

Mr. Stanchfield.— Here is a transaction between Mr. Connolly on the one hand and a third party on the other, to which Mr. Cohalan is not a party, in which he never acquiesced and of which he had no knowledge and to which he had never consented and which he afterwards, as Connolly states, repudiated and Connolly charged up to Cohalan in order to get somewhere near his 55 per cent. basis. I don't care much about it, but it seems to me —

The Chairman.— The witness contends that the judge consented to his paying that to him.

Mr. Stanchfield.— Oh, no, he said just the opposite.

The Chairman.— Well, possibly so; afterwards he said, "Use your own judgment."

Mr. Kellogg.— This, as I take it, the only purpose which it can be used for here is to show what Connolly claimed were the offsets against the 55 per cent. computation of profits, why he arrived at the conclusion in regard to that on Connolly's part.

Mr. Stanchfield.— It would strike one as a disinterested looker on —

Mr. Kellogg.— Who would that be?

Mr. Stanchfield.— Any person that was a bit keen that at least 55 per cent ought to go to one party and 45 to the other under any circumstances.

Mr. Kellogg.— It depends on whose duty it was to pay it and what the commission went for.

The Chairman.— I am not clear, Judge Kellogg, how that has anything to do with the controversy, I cannot see it. The claim is Judge Cohalan was entitled to 55 per cent. of the profits; Mr. Connolly admits this money was not paid to him. I do not see how it is any part of the controversy, and for the present I will sustain the objection.

Mr. Kellogg.— I will ask that this be marked for identification then.

Mr. Stanchfield.— He testified that he charged him with this $1,000 and that is to bolster up his claim.

(Papers marked Complainant's Exhibits 23 and 24 for identification.)

Q. Did you during these years 1904 and 1905 and 1906 consult Judge Cohalan in his capacity as an attorney about any matter? A. I did in the matter of O'Hanlon against the Victor Heating Company; and I have searched my memory very carefully, since the story came out in the papers —

Mr. Stanchfield.— Now you have answered his questions.

The Witness.— I wanted to say there was another slight transaction.

Mr. Stanchfield.— Well then, let him ask another question.

Q. I am asking you generally in what matters he rendered legal services, and you have stated the O'Hanlon matter. A. Right after O'Hanlon left the company and Lord & Burnham Company sued the Victor Heating Company for a matter of between one and two hundred dollars, and I know I took the complaint down to Mr. Cohalan and showed it to him and he laughed and he sent for one of his young men, a young man named Driscoll, and he said "The commissioner has been sued; take care of this for him." And the opposing lawyers were Douglas & Minturn, and Mr. Driscoll went over and I paid it off on instalments; and I might say that Mr. Cohalan never rendered me a bill for that slight transaction.

Q. Now did he render you a bill at any time for legal services during these years? A. He did.

Q. I show you a paper which I will ask to have marked for identification.

(Same marked Complainant's Exhibit 25 for identification.)

Q. (Continuing) and which now has been marked No. 25 for identification, and I ask you if that was the bill that was rendered? A. That is the bill.

Mr. Kellogg.— Will you also mark the check?

(Same marked Complainant's Exhibit 26 for identification.)

Q. Did you see the paper accompanying it — the check? A. I did.

Q. Did both those papers bear the signature of Judge Cohalan and the receipt of the bill and the indorsement on the check? A. They do.

Q. And was that bill paid by that check? A. It was.

Mr. Kellogg.— I now offer them in evidence. The bill is dated August 1st, 1905.

(Same received in evidence and marked Complainant's Exhibit 26.)

Q. Now, was there ever any other bill rendered to you by Judge Cohalan for legal services at any time subsequent to 1904? A. None.

Q. Or to the Victor Heating Company? A. No, sir.

Q. Did you have other transactions during this period with Judge Cohalan where money passed between you — where checks passed between you in the way of loans? A. Yes.

Q. From which side was the loan made, who made the loan? A. Mr. Cohalan.

Q. At what time? A. One of the books will show it there.

Q. I show you this book which has been marked for identification Complainant's Exhibit 18, which appears to be a check stub book, calling your attention to the entry under date of June 20th, which follows the 1905, "D. F. Cohalan Bills payable $300," and ask if that refreshes your recollection as to the time that Judge Cohalan loaned to the Victor Heating Company the sum of $300? A. He was loaning it to the Victor Heating Company, I think, and not to myself personally, and it was repaid, I believe, ten days afterward.

Q. Whatever it was, it was deposited evidently in the bank account of the Victor Heating Company, wasn't it? A. Yes, sir.

Q. I call your attention to the entry in that same book following check stub 550 showing a check — indicating a check to the order of Daniel F. Cohalan for $300 "Bills payable for return of loan made to us June 20th," and ask if that is the time when the money was repaid to Judge Cohalan? A. It is.

Q. The 5th of July, 1905? A. Yes.

Q. Does that refresh your recollection as to whether the loan was made to you individually or to the Victor Heating Company the fact that it is in the check book? A. It speaks for itself; that was loaned I should judge to the Victor Heating Company.

Q. And the repayment was made by check, wasn't it? A. Of the Victor Heating Company, yes, sir.

Q. Now, after this last payment that you have testified to, Mr. Connolly, of November 10, 1906, did you have further interviews with Judge Cohalan? A. I did.

Q. Can you locate those as to any definiteness of time or place or any other way; if so if you will state the first one? A. Why, I should judge a week or ten days or possibly 20 days the latter part of November, around the 1st of December I told him that I was going to look for a position and I wanted to know what his attitude would be with the head of Tammany Hall. He said he would tell him the truth and that is all I could get from him.

Q. Did you ever — did you make an application for some position? A. I did.

Q. Did you have any conversation or interview with Judge Cohalan about it at any time? A. I did.

Q. And when was that? A. I think after I was endorsed by my State Committeeman, I told him about it.

Q. What did he say? A. Well, he said if Mr. Murphy would speak to him about it, that he would tell him the truth, and that is as far as I could get anything out of him on that end of it.

Q. Well, pass along now — A. (Interrupting) And I told him also that I was a heavy contributor to the campaign fund in the election of the Democratic officials that were elected that year, State officials.

Assemblyman Cuvillier.— What year was that?

Mr. Kellogg.— 1906?

The Witness.— 1906.

Q. Well, you didn't get that position, did you?

Assemblyman Cuvillier.— What position was he looking for?

Q. He wants to know what position you were looking for? A. Why, I think I applied for Corporation Tax Commissioner; in fact I know I did.

Q. In what office? A. In the State Comptroller's office.

Mr. Kellogg.— Now it doesn't occur to me that that is of very much importance. I will go into it further if you want me to.

Assemblyman Cuvillier.— No.

Q. Along from 1906 — now, coming down to 1909, I want you to jump over everything in the meantime, if you will? A. I will.

Q. But I want you to be sure that you understand me now, because I am coming to another condition. Nineteen hundred and nine, January; do you remember anything that happened at that time? A. I do.

Q. Well, in connection with Judge Cohalan, of course we both mean. State what it was.

Mr. Stanchfield.— You mean a conversation with the Judge?

Mr. Kellogg.—Conversation with Judge Cohalan, or something that took place.

The Witness.— You mean you want to begin in 1909?

Q. January, 1909, which I understand is the beginning of this bringing of an action. Am I correct about that? A. Yes, sir.

Q. That is the circumstance that I am trying to bring out now before this committee. Now, if you will give me that, what was it, what happened, and where it happened and all about it? A. Well, in the intervening time he had —

Mr. Stanchfield (interrupting).— He hasn't asked him about any intervening time.

The Witness.— I went down to Mr. Cohalan's office at No. 2 Rector street on January 11, 1909. I met his uncle here, a Mr. O'Leary, and there was somebody in with him, and I waited outside, and when the gentleman came out, I said to Mr. O'Leary,

"Kindly tell Mr. Cohalan that Mr. Connolly is outside, and would like to have a few words with him." Mr. O'Leary went into his, Mr. Cohalan's office, and came out shortly afterwards, closing the door, and in very cold —

Mr. Stanchfield (interrupting).— Never mind.

The Witness.— What Mr. O'Leary said was this: "Mr. Cohalan cannot see Mr. Connolly now or at any other time."

Q. What did you do then? A. I started for Alfred B. Cruikshank's office.

Q. Who is he? What does he do? A. He is a lawyer at No. 43 Cedar street.

Q. What is the name of the firm? A. Atwater & Cruikshank.

Q. You consulted the attorney at that time, did you? A. I did.

Q. Did you write a letter at or about that time to Judge Cohalan? A. I did.

Mr. Kellogg.— Have you the copy? I think there is something that perhaps you have.

(Mr. Kellogg passes paper to Mr. Stanchfield.)

Mr. Kellogg.— You say perhaps we have. Perhaps, if it is in its regular place, it is in the books of the Victor Heating Company.

Mr. Kellogg.— Don't let us argue this case now. What I am trying to ask you —

Mr. Stanchfield (interrupting).— What did you mean by that remark.

Mr. Kellogg.— I thought perhaps you would produce this one.

Mr. Stanchfield.— Didn't you mean that in a sarcastic sense?

Mr. Kellogg.— I didn't think that would hurt your feelings.

Mr. Stanchfield.— If this flurry is over, and there is no bloodshed, go ahead.

Mr. Kellogg.— You have no objection to that.

Mr. Stanchfield.— Not at all; we never had.

Mr. Kellogg.— Thank you. I will ask to have that marked in evidence.

Letter received in evidence and marked Complainant's Exhibit No. 27 of this date.

Mr. Kellogg.— I think, if the committee pleases, this is a letter that I will read. It is not very long, and you can hear what is in it. It bears the ordinary letterhead of the Victor Heating Company, which I will not read in detail.

"VICTOR HEATING COMPANY,

ENGINEERS AND CONTRACTORS,

2295 Broadway.

NEW YORK, U. S. A., *January* 12, 1909.

(Copy.)

Mr. DANIEL F. COHALAN, *No. 2 Rector Street, New York.*

DEAR SIR.— Our ledger shows that you are indebted to this company in the following amounts:

October	29th.	1904,	Cash.....	$500.00
December	6th.	1904,	Cash.....	200.00
January	20th.	1905,	Cash.....	185.00
January	23rd.	1905,	Cash.....	55.55
May	22nd.	1905,	Cash.....	1,000.00
August	2nd.	1905,	Cash.....	1,000.00
September	17th.	1906,	Cash.....	500.00
November	10th.	1906,	Cash.....	500.00
				$3,940.55

It is not convenient for us to carry this account any longer and we would thank you for your check to balance it. The writer called on you yesterday and was unable to see you or obtain any appointment. Therefore we are obliged to notify you that if after a reasonable time we do not hear from you we shall place the account in the hands of our counsel for such action as he may advise.

Very truly yours,

VICTOR HEATING COMPANY,

(Signed) JNO. A. CONNOLLY."

Assemblyman Levy.— What is the date of that letter, Judge?

Mr. Kellogg.— January 12, 1909.

(To Mr. Stanchfield).— Will you produce the original of this letter, gentlemen? I want to see it.

Mr. Kresel.— We haven't it here, Judge Kellogg.

Mr. Stanchfield.— We haven't the original here. It has been published in every newspaper in the country.

Mr. Kellogg.— Will you produce it here, or can you?

Mr. Stanchfield.— If we can get it, we will.

Mr. Kellogg.— Then you concede, as I understand it, that you received the original, of which this is a copy?

Mr. Stanchfield.— Yes; we will have it here in the morning.

Mr. Kellogg (continuing).— At about the date it bears record?

Mr. Stanchfield.— Yes.

Mr. Kellogg.— At about January 12, 1909?

The Chairman.— They concede that date, don't they?

Mr. Kellogg.— I understand they do. They concede the original, of which this is a copy, was sent about the date which it bears.

Q. Who prepared this letter, Mr. Connolly? A. Why, I dictated a part of it and Mr. Cruikshank corrected it.

Q. Have you the draft of that letter? A. Yes.

Q. Did you see an original letter that was written by your counsel to the respondent somewhat later than this one that you sent? A. Yes.

Mr. Kellogg.— Have you got that here?

Mr. Chrystie.— Yes. (Producing.)

Mr. Kellogg.— I ask to have this marked for identification.

Letter marked Complainant's Exhibit 28 for identification.

Mr. Kellogg.— This is a carbon copy of the letter that was sent to the Judge. Have you the original of that letter?

Mr. Stanchfield.— Why don't you prove that when you get Cruikshank on the stand.

Mr. Kellogg.— Why, we will try it the best we can. We cannot try it as well as you would if you were doing it, but we are doing the best we can.

Mr. Stanchfield.— I shall object to trying it this way for the present. Let the Committee rule.

Mr. Kellogg.— I ask the gentleman to produce the original of this letter of January 26, 1909, from Atwater & Cruikshank to the Victor Heating Company.

Mr. Stanchfield.— It is not here. Those letters will be here in the morning.

Mr. Kellogg.—You concede you have the original of this?

Mr. Stanchfield.— Certainly.

Mr. Kellogg.— All right.

Mr. Kellogg.— Certainly. That is the quickest way to get it then. All right.

Mr. Stanchfield.— Certainly. We got it from Atwater & Cruikshank. We didn't get it from Connolly.

Mr. Kellogg.— Those were his attorneys. I offer in evidence letter from Atwater & Cruikshank bearing date January 26, 1909, on the concession that the original was received by Judge Cohalan at or shortly after that date.

Exhibit 28 for identification was received in evidence and marked Complainant's Exhibit 29.

The Chairman.— Read the letter.

Mr. Kellogg (reading):

"Atwater & Cruikshank,
43 Cedar Street,
New York.

January 26, 1909.

Daniel F. Cohalan, Esq.,
2 Rector Street,
New York City.

"Dear Sir.— The Victor Heating Company has retained us in the matter of a claim against you for $3,940.55, money advanced at various times, particulars of which we understand have

been already furnished you by the Company and we have been requested by the Victor Heating Company to collect the same. We will be glad to hear from you at your convenience."

This letter bears the initials A.B.C.

Q. Did you sometime in February of this year call at the office of Atwater & Cruikshank who had acted as your attorneys in this matter and seen certain correspondence upon their files? A. Yes, sir.

Q. Did you see there a letter bearing the signature of Daniel F. Cohalan under date of January 27, 1909, addressed to Atwater & Cruikshank? A. I cannot recall the exact date at this time, Mr. Kellogg, but I can recall —

Q. Can you recall the original letter? A. I can recall the original letter and the substance of the letter.

Mr. Kellogg.— I ask to have that marked for identification.

Letter marked Complainant's Exhibit 30 for identification.

Q. I ask you if that is a copy of letter you saw in the office of Atwater & Cruikshank last February of this year, 1913, bearing the signature of Daniel F. Cohalan?

Mr. Stanchfield.— I object to that, that it is incompetent and improper. It is not that the correspondence is objected to, but if Judge Kellogg takes the attitude he has stated here with frankness, which I assume he has, when he made the remark that he is simply acting as a friend of this Committee in this investigation, they why doesn't he pursue the regular way and call Atwater & Cruikshank to produce the correspondence. What is the point in trying to prove this in some circuitous roundabout method that is not competent and does not obtain ordinarily in courts of justice?

Mr. Kellogg.—As long as counsel has asked the question, which is entirely proper, I will answer it, though otherwise I would not, because he knows the circumstances.

In the month of February this year Mr. Connolly went to the office of Atwater & Cruikshank and got a copy of his letters and since then they have been destroyed. That is the fact.

Assemblyman Cuvillier.— Mr. Cruikshank is a witness here.

Mr. Kellogg.— He is a witness here?

Assemblyman Cuvillier.— He is here.

Mr. Kellogg.— Do you want me to stop and call him? I will conduct this investigation any way that the gentlemen on this Committee suggest and I don't care, but it seems to me when this gentleman is on the stand and has a copy of a letter in his hand it is a well-known fact that Judge Cohalan has written a letter to him, I do not know why we should not adopt the most expeditious way to get at the fact, to wit, introduce it in evidence now. That is my humble judgment.

The Chairman.— Proceed.

The Witness.— I saw the original of this letter in Mr. Cruikshank's office last February bearing the signature of Daniel F. Cohalan, No. 2 Rector street.

Mr. Kellogg.— It is not a prominent matter.

Mr. Stanchfield.— This statement that Judge Kellogg makes that this correspondence has been destroyed is a matter well known, is absolutely unfair. Mr. Cruikshank is here. Judge Cohalan never suggested the destruction of this correspondence.

Mr. Kellogg.—We don't claim so. It is well known that it has been destroyed.

Mr. Stanchfield.— Why don't you put Mr. Cruikshank on and prove it?

Mr. Kellogg.— We have another witness on. I think it is more orderly to proceed in this way.

Mr. Stanchfield.— The Judge is not fair in taking this attitude because it is not the proper way to prove that correspondence and I want the committee to understand it.

The Chairman.— We understand it that way. It is a matter you practically conceded.

Assemblyman Levy.— There has been no concession.

Q. Have you a letter press copy of this? A. I do not know, Judge, whether we have or not.

Mr. Kellogg.— Perhaps, if you have a press copy in your office it would be the best way. Will you produce the original of this or the letter press copy?

Mr. Kresel.— If we have it I will produce it.

Mr. Kellogg.— I am very loath to break into the examination of one witness to call another to the stand. I never saw anything gained by it. If a letter press copy will be produced in the morning, that is the best way out of it. This is now marked for identification.

The Chairman.— All right. Proceed.

Mr. Stanchfield.— Judge Kellogg, do you intend to call Mr. Cruikshank as a witness?

Mr. Kellogg.— I do; eventually.

Mr. Stanchfield.— On your side of the case?

Mr. Kellogg.— Not on my side of the case. I am going to call the gentleman to see what he knows about things.

Mr. Stanchfield.— You are going to call Cruikshank?

Mr. Kellogg.— I am going to call him, yes, Mr. Stanchfield.

Mr. Stanchfield.— Then you can put that letter in.

Mr. Kellogg.— All right. I put it in now. Exhibit 30 for identification.

The letter, Exhibit 30 for identification, was marked Exhibit 31.

Mr. Kellogg.— I don't like the suggestion that Mr. Cruikshank is my witness.

Mr. Stanchfield.— I never made any criticism until you took the circuitous method of making the proof.

Mr. Kellogg.— Will I read Mr. Cohalan's letter, his reply, about three lines?

The Chairman.— Yes.

Mr. Kellogg (reading).—

"*January* 27, 1909.

Atwater & Cruikshank,
43 Cedar Street,
New York.

"Dear Sirs.— I am astonished at the receipt of your letter of the 26th relating to alleged claim of the Victor Heating Company against me. I owe you nothing in any way and am at a loss to understand such demand."

Q. Did you subsequently commence action against Judge Cohalan? A. My lawyers did.

Q. Did you furnish him with a statement of facts in regard to the matter? A. Yes, sir.

Q. Did you verify a complaint? A. I did not. The Secretary —

Mr. Stanchfield.— Wait. He just asked whether you did.

Q. Did you yourself? A. I did verify a complaint finally, but I believe he is not meaning the original complaint.

Q. I am speaking of the first complaint which initiated the action. Did you verify that complaint? A. I did not.

Q. Did you read it at the time? Did you know its contents? A. I did.

Q. When did you last see that complaint? A. When did I last see that complant?

Q. The original complaint, the action brought by the Victor Heating Company against Judge Cohalan? A. Why, the day it was verified by Dr. Cutter at the office of the Victor Heating Company.

Q. Who was this Dr. Cutter? A. He is a practicing physician in New York city, and he was elected secretary of the Victor Heating Company at the request of Mr. Cruikshank.

Q. Had Mr. Cruikshank, Mr. Cutter, the one that had verified this original complaint, been connected with the company prior to that time? A. No, sir.

Q. And how long before that had he been elected an officer? A. Why, the minute book will show, Mr. Kellogg.

Q. You have it? A. We have it here.

Q. What was the date of the verification of the original complaint, if you know? A. Why, I think it was March 12th or 13th, anywheres in that neighborhood.

Q. In March, 1909? A. In March, 1909.

Q. I show this witness a letter, a copy of a letter, it is a carbon copy, which I ask to have marked for identification —

(Same marked Complainant's Exhibit 32 for identification.)

Q. (Continuing) And ask you, Mr. Connolly, if the original of that letter was at one time inspected by you; the letter is addressed to Judge Cohalan? (Handing letter to witness.) A. I sat in Mr. Cruikshank's office the day that letter was dictated.

Mr. Kellogg.— Have you any objection to that?

Mr. Stanchfield.— I don't know whether we have the original or not.

Q. I show you the original, which has been produced —

Mr. Kellogg.— You concede this was received?

Mr. Stanchfield.— Yes.

Mr. Kellogg.— I offer it in evidence. I think it is not necessary to make further proof on it. I will substitute that in place of the copy which will take the place of No. 32.

(Same received in evidence and marked Complainant's Exhibit 32.)

The Chairman.— What is that letter?

Mr. Kellogg.— That is a letter of February 24, 1909:

"Victor Heating Co. vs. Cohalan.

"Daniel F. Cohalan, Esq., 2 Rector St., New York City:

"Dear Sir.— Referring to your letter of recent date in reply to our previous letter, it occurs to us that before drawing the complaint or commencing any proceedings herein it might be useful, and it certainly could do no harm, to have a conference between yourself and Mr. Connolly and see whether the matter cannot be amicably arranged. We always think it best to settle if possible rather than to litigate every controversy that comes into this office, and especially in view of our esteem for and the friendly relations both with yourself and Mr. Connolly it seems highly appropriate that we should do our best to get you together if possible. Our suggestion, therefore, is that a meeting be arranged between yourself and Mr. Connolly without the presence of anyone representing our firm, at which we hope a settlement satisfactory to both parties might be arrived at. If you will kindly fix a time and place for such a meeting we will see that Mr. Connolly is present.

"Yours sincerely,

"A. & C."

I offer in evidence a letter bearing date of February 26, 1909, to which there is no objection.

(Same received in evidence and marked Complainant's Exhibit 33.)

The Chairman.— From whom to whom?

Mr. Kellogg.— From Daniel F. Cohalan to Atwater & Cruikshank.

The Chairman.— Under what date?

Mr. Kellogg.— February 26, 1909.

"Daniel F. Cohalan, Counsellor at Law, 2 Rector Street, New York:

Gentlemen.— In accordance with request in your letter of February 24th, I consent to meet Mr. Connolly here on Monday, March 1st, at 3 P. M.

Very truly yours,
(Sd.) DANIEL F. COHALAN."

Q. Subsequent to that letter, did you meet the defendant at his office? A. I met Mr. Cohalan at his office.

Q. At what time, Mr. Connolly? A. At 3 o'clock.

Q. On the 1st of March? A. On the 1st of March.

Q. What happened there? A. Why, he asked me what I meant by it.

Q. Go on and state all that occurred there that you remember? A. Well, I told him that I meant everything that I said in my letter to him of January 12th.

Q. Well, did that result in anything? A. (Interrupting.) And that on account of the way that he had wronged me, the way that he had treated me, that I proposed to have him pay back every cent of tribute that I had given him. Briefly, I told him it was $3,940 or fight. "Well," he says, "It will be fight, and the sooner you sue the better." And he stated that he would make me submit to him; and we brought up the question of the corporation tax commissioner.

Q. Speak up so that the Senator can hear you. A. He stated that I had the entire organization back of me at the time, and I told him I thought it was very strange under the circumstances. I don't think much more was said.

Q. Then you withdrew, did you, from the meeting? A. From the office, and called upon Mr. Cruikshank, as I recall it.

Mr. Stanchfield.— While this lull is here, will you ask him to hand you the copy of the contract he had with the New York World, that he was to produce.

Q. Have you that here? A. I have a copy, yes, sir.
Q. Where is it? A. (Producing.)

Mr. Stanchfield.— I meant I wanted to look at it while you go right along with your examination.

Q. You remember seeing that original complaint in your action or the action of your company against Judge Cohalan? A. I did.
Q. When did you last see it? A. Why, I think I delivered it to him after it was verified.
Q. To whom? A. To Mr. Cruikshank; I think that was the last time I actually saw it.

Mr. Kellogg.—Will you produce the copy of the complaint in that action, or is it conceded that there is none in existence?

Mr. Stanchfield.— Mr. Cruikshank knows all about it.

Mr. Kellogg.— Well, we are examining this witness now.

Mr. Stanchfield.— I am disinclined to concede your case all the way through; any letters or correspondence —

Mr. Kellogg.— I asked you a simple question.

Mr. Stanchfield.— I don't know what Cruikshank did about it, except what I read in the newspaper he said before the Bar Association, and Mr. Chrystie knows all about that, and so does Mr. Guthrie know all about it.

Mr. Kellogg.— And a subpoena asks you to produce certain things, and I ask you if you will produce a copy of the complaint served on Judge Cohalan in the action brought by the Victor Heating Company against him, pursuant to that subpoena.

Mr. Stanchfield.— Well, if you keep on about that subpoena there will be some things said about it.

Mr. Kellogg.— There won't be anything said about it which will terrify anybody. I am asking you if you will produce certain things.

Mr. Stanchfield.— You won't terrify anybody, but it might reflect upon counsel very much that advised the service of such a subpoena in this case.

Mr. Kellogg.— The question is, I am asking you if you will produce a copy of the original complaint served upon the defendant in that action.

Mr. Stanchfield.— I told you we didn't have it.

Q. Do you recall the contents of that complaint, Mr. Connolly? A. Not being a lawyer, Mr. Kellogg, I cannot remember its verbiage. I have one distinct —

Mr. Stanchfield.— The question was whether you could recall it or not, first?

The Witness.— I can recall parts of it.

Q. Can you recall the substance of anything that was in it? A. I can recall something that was in it.

Q. Well, I will come down now — can you recall —

Mr. Stanchfield (interrupting).— I object to that until —

The Chairman (interrupting).— Objection sustained.

Q. What do you recall about a subsequent interview after the complaint was served and an interview was had between you gentlemen, Judge Cohalan and yourself at the office of Mr. Cruikshank and in his presence? A. You are asking me what took place there?

Q. Yes, you had an interview after this action was brought with Mr. Cohalan at Mr. Cruikshank's office when this matter was discussed.

The Chairman.— When was the date of that?

Mr. Kellogg.— On or about May 7, 1909.

The Witness.— Yes.

Q. Does that recall it to you? A. Yes.

Q. What was it? A. Well, there was a great deal said, Mr. Kellogg.

Q. Well, can you recall in substance — A. (Continuing) On both sides.

Q. (Continuing) As to amounts or as much as you can. A. Oh, there was a great deal said about gratitude and ingratitude on both sides by Mr. Cohalan and myself.

Q. Well, did that result in any settlement? A. Not that day.

Q. Did you — now, did you have other conferences then? A. We had another conference; yes, sir.

Q. Who was present at that time? A. That was the day of settlement, as I recall it.

Q. Well, who was present first, I am asking? A. Mr. Cruikshank and Mr. Cohalan and myself.

Q. And when was it? A. May 27, 1909.

Q. What occurred at that time? A. Why, Mr. Cruikshank stated that he was going to draw an amended complaint, that Mr. Cohalan had objected to certain phrases in the original complaint; and after we had waived the interest a settlement was agreed upon —

Q. (Interrupting) Well, now, you are coming to a conclusion. You will have to state what was said and give it in detail as much as you can?

Mr. Stanchfield.— I don't think that was a conclusion; that settlement had been agreed upon and the interest waived. It seems to me that was a very succinct statement of the facts.

Mr. Kellogg.— Did anybody say that?

Mr. Stanchfield.— That is what he said.

Mr. Kellogg.— I didn't understand it that way. I want to know what happened in the conversation.

Mr. Stanchfield.—When you ask a question, Judge, that you want to know what happened in a conversation, do you mean by that that you want the conversation?

Mr. Kellogg.— That is the way I try to express it, yes, and what happened beside the conversation?

The Chairman.— Proceed.

The Witness.—Well, Mr. Cohalan told Mr. Cruikshank and myself that he — when he paid the money over he would expect that all records of the transactions between us would be destroyed, and that I would open a new set of books, and that was practically consented to by Mr. Cruikshank.

Q. Well, now, what was said about the settlement — you spoke of a settlement — I want to know the details, what was said? A. He said simply that he would have to go out and borrow the money but that I could have it in a very few days.

Q. How much? A. The entire amount, $3,940.55.

Q. Now, is that the amount that you demanded in your complaint? A. Yes, sir.

Mr. Stanchfield.—Wait a minute. I object to that; the complaint is the best evidence.

Mr. Kellogg.—We cannot get it apparently.

Mr. Stanchfield.— Well, you have had a ruling also that you were not permitted to ask this witness about its contents.

Mr. Kellogg.— I want to proceed as far as I can.

Mr. Stanchfield.— I suggest again it is an unfair way to try to prove it.

The Chairman.— Now, this is a very important conference, and the Committee would like to know. Go ahead and tell all that took place there. Let us find out what took place.

The Witness.— On the day of settlement?

The Chairman.— I don't know what you call it.

Mr. Kellogg.— This is the day preceding. I guess this is the day they agreed on.

Assemblyman Cuvillier.— Charge 29 says: "Negotiations were entered into between said Cohalan and the attorney for plaintiff in said action looking toward a settlement of the claim set forth in the complaint therein. Said Cohalan first offered to pay $1,000 and subsequently $1,500 to the plaintiff in settlement, which offers were refused, and he finally agreed to return, and did return, the entire sum claimed, to wit, the sum of $3,940.55 without interest, and said sum was paid to the attorneys for the plaintiff in said action on May 27, 1909." That is the proposition that the Committee wants to know.

Mr. Kellogg.— Those intermediate offers I stated to the committee I understand were communicated to the attorney and the conversations, as far as this man knows, were between this man and his counsel. I haven't thought that was competent. I was trying to show, and I think I did to some extent, a certain conversation, and, as the chairman suggests, it is an important thing, the conversation that this man here present had between himself

and his counsel and Judge Cohalan in this month of 1909, in which the terms were agreed upon.

Senator Blauvelt.— I understand the objection is, is this statement in the complaint?

Assemblyman Levy.— We have drifted away from that and the chairman wanted to know what was the conference.

The Chairman.— Go ahead now and state just exactly as near as you can remember what took place that day.

Mr. Kellogg.— Do you want him to go over the whole thing?

The Chairman.— Yes.

Mr. Stanchfield.— There isn't any force in the suggestion of Judge Kellogg that Cruikshank could not testify because he was the counsel, because Connolly has expressly waived it.

Mr. Kellogg.— I say this witness could not at this time give the details of the conversation between himself and Mr. Cruikshank. That is what I said.

Q. Now, if you will tell what did happen again, the Chairman wishes, about this conversation in 1909, when the settlement, as you stated, was agreed upon, and stated fully? A. Well, it was agreed between the three of us that the evidence of the transaction should be destroyed and that he looked to Mr. Cruikshank to go up to my office and go over it and protect him.

Q. Well, what was said at that time about amounts to be paid? A. It was agreed that the plaintiff have the full amount demanded without interest.

Q. Who said that? A. Mr. Cohalan said that, and he asks for general releases from the Victor Heating Company and myself personally.

Q. Well, now, was anything said about the complaint in the action? A. He said that the original complaint should be destroyed; I told him I had a copy of it up at the office.

Q. What was said about that? A. Well, I told him that whatever Mr. Cruikshank advised me to do I was perfectly willing to do it.

Q. Now, did you — what was said about a new complaint, verifying another complaint? A. Well, I brought up that matter in an accidental way; I thought that Cutter verified the original complaint and that he might possibly be wanted to verify the

amended complaint, and Mr. Cruikshank said that wouldn't be necessary; he says we will draw up a formal complaint of monies loaned; that is what Mr. Cohalan — wanted the complaint drawn that way — and you can verify it as president of the company; and after Mr. Cohalan left, why, I did sign such a complaint; it was very short.

By the Chairman:

Q. How long were you in the office; how long did the conference take place; how long were you in the office? A. How long was I in the office that day?

Q. Yes. A. Oh, I don't think I was there over fifteen or twenty minutes.

Assemblyman Cuvillier.— Mr. Connolly, now you said about the complaint being drawn. The specifications of the charge by the Bar Association says, together with all evidence of the transactions between said Cohalan and the Victor Heating Company. What do you mean by that " together with all evidence? "

Mr. Kellogg.— That is a later matter; I will come to that shortly. That was after this transaction.

I have here a copy of the amended complaint.

(Mr. Kellogg passes paper to Mr. Stanchfield.)

Mr. Kellogg.— Will you produce the copy that was served?

Senator Blauvelt.— Where is the original?

Mr. Kellogg.— The original is gone.

Mr. Stanchfield.— Where is the original of that complaint?

Mr. Kellogg.— Mr. Cruikshank says it was destroyed.

Mr. Stanchfield.— The original of this complaint?

Mr. Kellogg.— But you have a copy of that?

Mr. Stanchfield.— Never mind what I have got. I want to know why the second one was destroyed.

Mr. Kellogg.— I don't know why.

Mr. Kresel.— You can use my copy.

(Mr. Kresel passes paper to Mr. Kellogg.)

Mr. Kellogg.— The defendant's counsel produces the amended complaint —

Mr. Kresel (interrupting).— Respondent's counsel.

Mr. Kellogg.— Respondent's counsel produces the amended complaint which I offer in evidence.

Assemblyman Levy.— Copy of the amended complaint?

Mr. Kellogg.— It is the copy which was served upon the Judge.

The Chairman.— It is offered in evidence?

Mr. Kellogg.— It is offered in evidence.

(Paper received in evidence and marked Complainant's Exhibit No. 34 of this date.)

Said exhibit reads as follows:

"SUPREME COURT — NEW YORK COUNTY.

VICTOR HEATING COMPANY, Plaintiff, against DANIEL F. COHALAN, Defendant.	Amended Complaint.

"The plaintiff above named complaining of the defendant alleges upon information and belief, that at all the times herein mentioned the plaintiff was and now is a domestic corporation, and that heretofore and at the City of New York and at sundry times between October 1st, 1904, and December 1st, 1906, the plaintiff loaned and advanced to the defendant certain sums of money, amounting in all to three thousand nine hundred and forty and 55-100 (3,940.55) dollars, no part whereof has been repaid.

"Wherefore plaintiff demands judgment against the defendant in the sum of three thousand nine hundred, forty and 55-100 (3.940.55) dollars, with interest thereon from December 1st, 1906, together with the costs of this action.

"Dated, New York, May 27th, 1909.

"ATWATER & CRUIKSHANK,
"Attorneys for Plaintiff,
"43 Cedar Street, Manhattan,
"New York City.

"City and County of New York, ss.:

"John A. Connolly, being duly sworn says that he is the president of the plaintiff; that the foregoing complaint is true to the knowledge of deponent except as to the matters therein stated to be alleged upon information and belief and that as to those matters he believes it to be true.

"(Signed) JOHN A. CONNOLLY.

"Sworn to before me this 27th
day of May, 1909.
"D. Ella Drohen,
"Notary Public,
"New York County."

Assemblyman Levy.—What is the date of the certification?

Mr. Kellogg.— The certification bears date the 27th day of May, 1909.

Now, on the back of this paper is the following:

"$3,940.55-100 N. Y. May 27, 1909.

"Received from Daniel F. Cohalan, the defendant herein, the sum of three thousand nine hundred and forty 55-100 dollars in full settlement of the within claim and demand of the Victor Heating Company interest being waived and the defendant is entitled to a discontinuance of the action at any time without costs.

"ATWATER & CRUIKSHANK,
Plffs Attys."

Q. Do you know whose handwriting that receipt is in on the back of that? (Counsel passes exhibit 34 to witness) A. (After examining) Yes, Mr. Cruikshank's.

Q. Was the money paid at or about the time that receipt bears date? A. It was paid that same afternoon in cash.

Q. Where? A. Mr. Cruikshank got the money.

Q. But you were not there? A. I was not there; he told me that he deposited it in the Chatham National Bank and that he had telephoned the bank to keep it open; he didn't want that amount of cash — to keep it open after 3 o'clock, and they did; and he said he didn't want to have that amount of cash around his person.

Q. Well, you subsequently got the — A. (Interrupting) The next morning he gave me a check less his fee, and he made me go — or he requested that I should go to the Chatham National Bank and have it certified, which I did.

Q. Now, subsequent to that time, did Mr. Cruikshank visit your office? A. Yes.

Q. When was that? A. Within a week or ten days afterwards.

Q. At what time of day? A. Well, it was late in the afternoon, it was around 6 o'clock as I recall it.

Q. What happened at that time? A. Well, we went off — we went off to dinner together up to Bretton Hall.

Q. Well, that isn't a matter — A. (Interrupting) Well, we came back to the office.

Q. Then what happened? A. Well, I don't —

Q. (Interrupting) Who was present there first? A. No one but Mr. Cruikshank and myself.

Q. What happened? A. Why, I opened the safe and opened the drawer and took out the copy of the original complaint that I had and the checks, and he compared the — and the ledger, back of the — showed him the back of it where the account was, and he took out his penknife and cut it out.

Q. I show you this book marked for identification Exhibit 7, and I show you the last page of it, and ask you if that is what he cut out, where that space is? A. That he cut out, that is what Mr. Cruikshank cut out with his penknife.

Q. What was on that sheet? A. Why there was a memorandum account of Daniel F. Cohalan, with the amounts and the dates set forth?

Q. Do you know when the account was put there, if so state? A. It was put there just prior to the letter of January 12, 1909.

Mr. Goldberg.— Mr. Kellogg, do I understand that was on the last page in the letter?

Mr. Kresel.— Yes, the very last page.

Mr. Levy.— The very last page.

Mr. Quinn.— Yes, the last page.

Mr. Levy.— Are there any intermittent or blank pages?

Mr. Quinn.— Yes, hundreds of blank pages.

Q. About the first of June, is that about right? A. Yes, I think it was later than the first of June.

Q. In the month of June, about that time? A. Yes, the early part of June.

Q. Where did you get the checks? A. Why they were in a private drawer of mine.

Q. What checks were those? A. They were cash checks.

Q. You mean checks on which you say you drew cash that you paid to Judge Cohalan, as you described to-day? A. Yes, sir.

Q. Was there anything done to the check books? A. Why, I got down the check stub books for him, and he compared the check numbers, and he tore those out of the check stubs.

Q. Was there anything else? A. Then this correspondence to the company, or to me — he said "I won't destroy this. There is nothing in it that I am ashamed of, and you need not destroy any copies of letters that you sent me.

Q. Can you identify those stubs?

Mr. Kellogg.— Show him the ones where they are out.

Mr. Chrystie (Showing book to witness).— One on the page beginning with Stub 235.

Mr. Kellogg.— This is Plaintiff's Exhibit No. 18, shown the witness.

Mr. Quinn.— Exhibit 18 for identification.

Mr. Kellogg.— Yes, for identification, Exhibit 18.

Q. The stub in the middle of the page 3, which would be numbered 236, is missing? Is that one of those that was taken out at that time, Mr. Connolly? A. Yes, sir.

Q. The one following, which was originally — would probably have been check 240, is missing. Is that one of those taken out at that time? A. Yes, sir.

Q. The stub which would have borne the number 463 is missing. Is that one taken out at that time? A. Yes, sir.

Mr. Kellogg.—Another book is shown the witness, which is marked for identification Exhibit 20. The attention of the witness is called to the absence of the stub which would have succeeded 5756.

Mr. Stanchfield.— Dated when.

Mr. Kellogg.— The one preceding it is dated September 15, 1906, and the one succeeding September 17, 1906; probably dated 15th, 16th or 17th.

Q. I ask you if that is one of the stubs which was removed at that time? A. It is.

Q. The stub that originally bore the number 5885. I ask if that is one of the stubs removed at that time? A. Yes, sir.

Mr. Stanchfield.— Give the date of that?

Mr. Kellogg.— The day following was November 12, 1906, and the date preceding is November 9th.

Here is another one, book marked for identification Exhibit 19, shown to the witness, whose attention is called to the place on the stub book where check 5139 originally was.

Q. I ask you if that is one of the checks which was removed at that time? A. Yes, sir.

Mr. Kellogg.— These are drawn to cash (addressing the Chairman). He said every time he drew a check to cash he would go and get the money.

Senator Wagner.—A check drawn to cash?

Mr. Kellogg.— He said this morning that he drew his check on the bank for cash, and went and got the money for Judge Cohalan.

Mr. Stanchfield.— Less what he kept out for himself.

Mr. Kellogg.— I don't think he said anything of that kind. I don't remember it.

Mr. Stanchfield.— He will say it later on.

The Chairman.—We will now adjourn till 10 o'clock to-morrow morning. All witnesses will attend to-morrow.

(Next Exhibit No. 35, for complainant.)

Whereupon at 5:45 P. M. adjourned to Wednesday, July 9, 1913, at 10 A. M.

SENATE CHAMBER,

ALBANY, N. Y., *July* 9, 1913.

In the Matter of the Investigation by the Joint Committee on the Judiciary of the Senate and Assembly of the State of New York, into the charges preferred by John A. Connolly against Honorable Daniel F. Cohalan, a Justice of the Supreme Court of the State of New York, in and for the First Judicial District.

The Committee met pursuant to adjournment at 10 A. M.

Present:

The members of the Committee on the Judiciary of the Senate and Assembly.

Hon. John F. Murtaugh, Chairman.

Appearances:

J. A. Kellogg, Deputy Attorney-General, Counsel for the Committee.

William D. Guthrie, Esq., Counsel for the Bar Association of the City of New York.

Einar Chrystie, Esq., Secretary of the Bar Association of the City of New York.

John B. Stanchfield, Esq., William Travers Jerome, Esq., Isidor J. Kresel, Esq., and John Quinn, Esq., Attorney for the Respondent, Daniel F. Cohalan.

The Chairman.— The Committee again desires to state that no smoking shall be allowed in the room.

We are ready to proceed.

Mr. Kellogg.— At the session yesterday counsel for defendant stated that they would produce certain original letters, one of which was the letter of January 12, 1909, referred to on page 21 of the stenographer's minutes. That, I am advised, you cannot find.

Mr. Kresel.— I cannot find that.

Mr. Kellogg.— There are other letters.

Mr. Kresel.— Those I have produced.

Mr. Kellogg.— Which have been produced which I wish to read in evidence produced by the counsel for the respondent.

The Chairman.— Are those copies of letters which were read yesterday?

Mr. Kellogg.— The first one is, but the others are not.

The Chairman.— Is there any difference between the original and the copy?

Mr. Kellogg.— No difference, but I wish to put them in evidence to show that they are still in existence and are still in the possession of the respondent.

The Chairman.— Which one is that?

Mr. Kellogg.— I offer in evidence original letter of January 26, 1909, a copy of which was introduced yesterday.

Mr. Kresel.— No objection.

Mr. Kellogg.— It is the same as a previous exhibit.

The said letter was received in evidence and marked Complainant's Exhibit No. 35 of this date. Said exhibit reads as follows:

" Law offices of
ATWATER & CRUIKSHANK,
43 Cedar Street,
New York.

A. B. C. NEW YORK, *January* 26, 1909.

DANIEL F. COHALAN, ESQ., 2 *Rector Street, New York City:*

Dear Sir.— The Victor Heating Company has retained us in the matter of a claim against you for $3,940.55, money advanced at various times, particulars of which we understand have been already furnished you by the Company and we have been requested by the Victor Heating Company to collect the same. We will be glad to hear from you at your convenience.

Yours truly,
ATWATER & CRUIKSHANK."

Mr. Kellogg.— I offer in evidence a letter from Messrs. Atwater & Cruikshank from Daniel F. Cohalan, bearing date April 28, 1905, produced by defendant's counsel.

Letter received in evidence and marked Complainant's Exhibit 36 of this date. Said exhibit reads as follows:

" Law offices of
ATWATER & CRUIKSHANK,
43 Cedar Street,
New York.

E. L. B. NEW YORK, *April* 28, 1909.

DANIEL F. COHALAN, ESQ., 2 *Rector Street, New York City:*

Dear Sir.— Our client, the Victor Heating Company is very anxious for a speedy trial of the action against you, and all of the stipulations heretofore granted have been against its protest, but we have been desirous of extending to you every courtesy and suiting your convenience in every way possible and therefore have taken it upon ourselves to grant you three extensions. We cannot, however, grant you any further extensions and advise you of this so that you may not be hurried at the last moment in putting in your answer. If you will communicate with Mr. Blackman of this firm he will arrange an interview with Mr. Cruikshank at any time you may suggest.

Very truly yours,
ATWATER & CRUIKSHANK."

The Chairman.— That is Exhibit 30?

Mr. Kellogg.— 36; it was not introduced before. I will read this.

(Counsel thereupon read to the Committee Complainant's Exhibit No. 36.)

Mr. Kellogg.— I offer in evidence a letter bearing date May 1, 1909. That is on the letterhead of Atwater & Cruikshank.

The said letter was received in evidence and marked Complainant's Exhibit 37 of this date. Said exhibit reads as follows:

" Law offices of
"ATWATER & CRUIKSHANK,
" 43 Cedar street,
" New York.

" NEW YORK, *March* 1, 1909.

" *D. F. Cohalan, Esq.:*

" DEAR SIR.— In pursuance of your note of the 26th ult., Mr. Connolly will be at your office to-day, at three o'clock.

" Yours sincerely,
"ATWATER & CRUIKSHANK."

Mr. Kellogg.— I offer in evidence letter of May 14, 1909.

The letter was received and marked Complainant's Exhibit No. 38 of this date.

Mr. Kellogg.— On the letter head of Atwater & Cruikshank, May 14, 1909.

(Reading.) Dear Mr. Cohalan:

I do not expect to be at the office to-morrow, but I suggest that we meet early next week and see what we can do. As I told you over the telephone the proposition suggested will not be accepted as the party sticks to his original demand.

I cannot give you the twenty days' extension that you requested, but you can consider your time extended six days from to-day, and if some progress is meantime made towards a settlement further extensions can be given if necessary. I think for many reasons the matter had better be closed up as soon as possible.

Please let me know where and when we can meet next week.

Yours sincerely.

ALRED B. CRUIKSHANK.

Time to plead extended six days from May — what does that say, Mr. Kresel?

Mr. Kresel.— May 14, 1909.

Mr. Kellogg.— " Extended six days May 14, 1909.

"ATWATER & CRUIKSHANK."

Mr. Kellogg.— I offer in evidence another letter dated May 19, 1909.

The letter was received and marked Complainant's Exhibit No. 39 of this date.

Mr. Kellogg.— Letter head of Atwater & Cruikshank, May 19, 1909.

(Reading) " D. F. COHALAN, Esq.,

2 Rector street, New York City.

" Dear Mr. Cohalan:

" I have just had an interview with Mr. Connolly and he is here beside me while I write this letter. He expresses considerable dissatisfaction with the delays in this case and I have promised that I will do my best to bring the matter to a close at once.

I gave him your last offer of $1,500 and it was rejected at once, as I expected it would be, and he directs that I insist upon the full amount. I must therefore consider that negotiations are practically at an end unless you are willing to settle on the basis indicated. As I figure it roughly, the total claim with interest is about $5,000, and I take it upon myself to say that the case will be settled for $4,500, making a concession of about $500. If these terms are not accepted our instructions are to insist upon an answer within the next ten days. Your time to answer expires to-morrow, May 20th, and you can consider it extended ten days from that date for the purpose either of settlement or answer. I enclose you a properly signed consent extending your time as above indicated. If the settlement is arranged as I hope it will be, of course the details can be made entirely satisfactory to you in the manner suggested by you or otherwise; besides which I think I can make some further suggestions with the same object in view.

"Yours sincerely,

"ALFRED B. CRUIKSHANK."

John A. Connolly resumed the stand.

Direct Examination continued by Mr. Kellogg:

Q. Yesterday there was produced here a letterpress copybook? A. Yes, sir.

Q. Marked "Personal No. 1," and at that time you will remember there was a band around certain parts of it, sealed. You recall that fact, Mr. Connolly? A. I do.

Q. Now, I ask you to look at page 269, at the letter — at a copy of a letter in the letterbook dated January 10, 1905, addressed to Daniel F. Cohalan, and ask you if you dictated the original of that letter, and if it was mailed to Judge Cohalan at or about the date that bears (handing book to witness)? A. Yes, I recall that letter. I dictated it.

Mr. Kellogg.— Have you the original of that?

Mr. Kresel.— What date?

Mr. Kellogg.— January 10, 1905.

Mr. Kresel.— I have (producing).

Q. Who was the stenographer that you dictated it to, do you recall? A. I would have to look at the time book I think, Mr. Kellogg.

Mr. Stanchfield.— We object to that letter upon the ground that it is irrelevant and has no connection with any charges here. Judge Kellogg will perhaps submit it to the Chairman.

Mr. Kellogg.— It has reference to the work on the 98th street pumping station, which is one of the items charged. (Handing paper to Chairman.)

Mr. Stanchfield.— Let the Chairman read it and see. In any event it would be simply a self-serving declaration of Connolly.

Mr. Kellogg.— It is in the possession of Judge Cohalan.

Mr. Stanchfield.— That may all be. There is no answer to it, is there?

Mr. Kellogg.— It cannot be a self-serving declaration if addressed to a party and preserved by him.

Assemblyman Goldberg.— What has it to do with this proceeding?

Mr. Kellogg.— It has reference to the matter of this pumping station in which work was being done. I might as well state to the Committee at this point, I think, what I view the legal status of this proceeding. I think that this is an investigation, and I think it is the duty of this Committee and its counsel to go into these facts and develop them, and we have produced here Connolly, at the suggestion of the gentlemen of the Bar Association, who originally made these charges. Now it appears from his evidence, which was fully developed yesterday, according to his claim he asserts that he and Judge Cohalan were involved in certain enterprises which we might characterize, at least as questionable, if his statement is true. I think that in that view of the matter he stands somewhat in the position of an accomplice, and on that his statement should be corroborated by extraneous facts; and I think it is the duty of the Committee in an issue of that sort to produce all these items of evidence, such as correspondence between the parties at this time, in relation to the matters which are in controversy here, and I think the shutting out of anything is not proper. As to what weight it may ultimately have, I do not know; but I think it is

our duty to get these facts upon the record and hear what is to be said about them, and then after a full expression of the evidence, of oral statements and written documents, you can get at and see what, if any of it, is pertinent.

The Chairman.— If he sent Cohalan a letter relative to a murder of a man which occurred in San Francisco, would that be relevant?

Mr. Kellogg.— If it had something to do with the pumping station at 98th street, and showed that they were jointly interested in it, it would.

The Chairman.— What is there in the case, what reference is there to anything about the 98th street pumping station?

Mr. Kellogg.— It is one of the places where the work was done I think that was fully shown yesterday. It speaks there of work done at Tottenville, and the 98th street job.

The Chairman.— Where is that in the record? I wish you would show that to me.

Mr. Kellogg.— I will ask him again about it.

The Chairman.— Go on to something else, and lay this aside for the moment.

Mr. Kellogg.— I would like to have this marked for identification.

The said letter was marked Complainant's Exhibit No. 40 for identification, of this date.

Q. I will ask you first, Mr. Connolly, if the copy of that letter in the letter-press book which appears on page 209 is in its regular chronological order? (Counsel passes book to witness.) A. After examining) Yes, sir.

Mr. Guthrie.— Judge Kellogg, I have found the place.

Assemblyman Goldberg.— Where is that?

Mr. Guthrie.— From page 139 of the stenographer's minutes.

Mr. Kellogg (reading).— "Why, we got an order to repair pumps down at Tottenville. We also got an order to do the same thing at the 98th street pumping station at the Borough of Manhattan and also at 179th street in the same Borough." Now, here

we have a letter in regard to the conditions at the 98th street pumping station bearing date January 9, 1905. While this work was going on between these parties to this controversy, and it seems to me it is a strong item of corroboration to aid in a decision in this case, produced here by the respondent.

Mr. Stanchfield.— There isn't anything in the contents of that letter about which we are in the least concerned. I had supposed when the trial opened and these rules were called to my attention — and I am assuming it to be true yet, that this investigation, if you term it that, or trial, if the word is stronger, is to be conducted in accordance with the rules of legal evidence. That is the theory upon which this letter is objected to. There is no answer to it; there isn't any suggestion in relation to that anywhere here that Judge Cohalan did anything in response to it. It is simply Mr. Connolly making a request of Cohalan without the slightest evidence of any sort or description that it was ever acted upon by him or anything done in reference to it by him.

Mr. Kellogg.—It is a piece of evidence or a communication between the parties relative to a matter which is here in dispute.

Mr. Stanchfield.— If that letter contained anything in the nature, if the Chairman please, in the nature of an accusation against Cohalan and put him upon inquiry or put him in a position where he was called upon to answer, it would be a different proposition; but this is in the nature of a request that he should do something.

Assemblyman Cuvillier.— Mr. Stanchfield, is it outside of any transactions connected with the subject of any inquiry here?

Mr. Stanchfield.—Well, that is a broad question, Mr. Assemblyman. I would rather you would read it and you can see for yourself.

(Counsel passes minutes to Assemblyman Cuvillier).

Mr. Stanchfield.— It in a general way has reference to work that was being performed by Connolly.

The Chairman.— Now, this letter as I understand it, refers to none of the charges?

Mr. Kellogg.— It refers to a joint enterprise at the 98th street station at which the commission was paid. They were jointly interested in the work that was going on.

The Chairman.— I am clear on that.

Mr. Kellogg.— Here is a communication about something they had.

Senator Blauvelt.— That is a matter entirely foreign to the work itself.

Mr. Kellogg.—What purpose would there be in writing that letter unless they were interested in that 98th street pumping station?

Senator Blauvelt.— It is a collateral matter, I think.

The Chairman.— I will overrule the objection, and the Committee may overrule me. Go ahead.

Mr. Stanchfield.— I shall not ask anybody to overrule the Chairman.

The Chairman.— If we have a joint session to-day we will discuss it. Proceed there.

Mr. Stanchfield.— I had supposed — just for information — that the ruling of the Chairman stood unless one side or the other appealed from the Chairman's decision.

The Chairman.— The Committee themselves have a right to overrule the Chairman.

Mr. Stanchfield.— I was in the Legislature so I don't think I will try to experiment here.

Mr. Kellogg.— Just mark this as an exhibit please.

The letter heretofore marked Complainant's Exhibit 40 for identification was received in evidence and marked Complainant's Exhibit No. 40 of this date.

Said exhibit reads as follows:

"VICTOR HEATING COMPANY.
"2295 Broadway.

"New York, *January* 10, 1905.

"Mr. Daniel F. Cohalan, 271 *Broadway, City:*

"My Dear Cohalan.— Mr. Daniel J. Jennings, Chief Engineer at the 98th St. pumping station is afraid there is a movement on foot to transfer him to Tottenville or some other inac-

cessible point in Greater New York. He is an exceedingly clever chap, and has made the task of the duty you have imposed upon me very easy, he has taken good care of 'Bishop' Sheehan. It seems the man that was there before him whose name was Holcomb may want his old job back, so in case McKay asks for the transfer, kindly forestall such a move by speaking to the proper party.

"Thanking you in advance for this, I am

"Yours very truly,

"JNO. A. CONNOLLY."

Dict. J. A. C./J. B.

Mr. Kellogg.— This letter bears the letter head of the Victor Heating Company and is as follows:

(Counsel here read Exhibit No. 40).

Q. I show you in the same book, which book was marked yesterday Complainant's Exhibit 13 a copy of the letter on page 315. (Counsel passes book to witness.)

Mr. Kellogg.— Is that the next one, or have I passed one?

Q. Now, on that same book I show you the letter that is pressed on page 271, and ask you if that is a letter dictated by you and signed — a copy of a letter dictated and signed by you?

Mr. Stanchfield.— What is the date of that?

The Witness.— January 21, 1905. Yes, I signed that letter and dictated it.

Q. Is that impressed in the letterbook in its proper chronological order? A. Yes, sir.

Mr. Kellogg.— Have you the original of that letter?

Mr. Kresel.— Yes, sir. (Producing.)

Mr. Kellogg.— I offer it in evidence.

Mr. Kresel.— The same objection, which, of course, will be overruled, I suppose.

Mr. Stanchfield.— Yes, we make the same objection.

Senator Wagner.— Let us see the letter.

(Mr. Kellogg hands letter to Senator Wagner).

Mr. Stanchfield.— If those are supposed to cast any reflection on the respondent, it would seem the attitude of the witness himself would still be sufficient ground to exclude it, for evidently he did not regard anything shady about that, for he had it in the regular order. It is the first thing that has been introduced in the regular order.

The Chairman.— Objection overruled.

Mr. Kellogg.— The letter will be received in evidence.

Letter received and marked Complainant's Exhibit 41, of this date.

Mr. Kresel.— I will ask Judge Kellogg to have Mr. Connolly identify the note in blue pencil.

Is that blue penciling at the bottom of the letter in your handwriting? A. Yes, sir.

Mr. Kresel.— And the initials.

Q. And the initials are your initials, J. A. C.? A. The initials are mine, yes, sir.

Q. That was added after the letter was typewritten, was it not, this memorandum that you made on the bottom? A. I should say that it was.

Q. Was that put on before it was sent? A. It looks very much to me as if it was, because I never saw the letter after it was mailed until now.

Mr. Gibbs.— I cannot hear anything at this end.

Q. Speak louder, so that Mr. Gibbs may hear you. A. I say I had never seen the letter after it was mailed until just now, and the probabilities are that it was typewritten, as I was signing it, that I blue penciled it in that manner.

Mr. Kellogg (reading).— "January 31st, 1905.

"Mr. Daniel F. Cohalan,
"271 Broadway,
"New York, N. Y.

"My Dear Cohalan:—

"Mr. Frank P. Tormay, Chief Engineer at the 179th St. Pumping Station, in the Borough of Manhattan, is a man of wonderful attainments and clear cut personality and thorough me-

chanic in all that the word implies. As usual, he feels that he is liable to be transferred and he likes that station, in fact, it is the most important station and the largest in Greater New York, and you appreciate that the writer would not embarrass he or Jennings in any way, at the same time, when I find two men who are so skillful in their chosen line, and have sufficient diplomacy in addition, to make it pleasant and agreeable for the duty you have imposed upon me, I cannot refrain from speaking a kind word where I believe will do the most good.

"Thanking you in advance on these matters, I remain,

"Very truly yours,

"JNO. A. CONNOLLY."

Mr. Kellogg.— Do you want me to read this down below, this quotation?

Mr. Kresel.— Yes.

Mr. Kellogg.— Down below in blue pencil: "Both Celts J. A. C."

Q. Did you have any talk with Judge Cohalan about these matters referred to in these two letters which have just been put in evidence, at any time? A. I think it casually came up after the letters were sent.

Q. Was there anything said in regard to this phrase, "The duty imposed upon me," I think it is. Was there anything said about that? A. At that time?

Q. At or about the time the letters were sent, or shortly after. A. Well, I followed up the letters by stating —

Mr. Stanchfield.— Just a moment. You mean when you saw him, is that the idea?

Q. In his conversation? A. I spoke about it to him.

Q. What was said about it? A. Why, I asked him to see that they were left in their respective stations; and he replied that he would look into the matter, as I recall it.

Mr. Kellogg.— I desire to state to your Honors, in answer to your inquiry: I stated there were four of these letters; the other two I think are not sufficiently definite in my judgment, to make them competent. I merely state that in fairness to the Committee, and any gentleman may look at them and see if I am in error in not introducing them; I think they are too far afield of the is-

sue here involved, for the reason they do not refer to these charges. I say that in explanation, because there is nothing in them that I desire to conceal.

Mr. Kresel.— Let us see them and see what they are.

Mr. Kellogg.— Maybe my kind friend will put them in.

Mr. Kresel.— Am I your kind friend?

Mr. Kellogg.— Yes, sir. (Handing counsel.)

Q. During these years of 1904 and 1905, did you employ other attorneys, or did the Victor Heating Company, of which you were the president, employ other attorneys than Judge Cohalan in its business? A. Yes, sir.

Q. Who and for what purpose?

Mr. Stanchfield.— Well, that is objected to as irrelevant, incompetent and immaterial.

The Chairman.— I didn't get the question.

Mr. Stanchfield.— Whether he employed other attorneys.

Mr. Kellogg.— I think in the answer, in the statement is said that Judge Cohalan acted as his attorney in various matters. I want to show he did not, and that he had other attorneys that acted.

Mr. Stanchfield.— You have already proven that he had.

Mr. Kellogg.— I did in one case.

Mr. Stanchfield.— Then what pertinency has the fact that he had employed other counsel?

Mr. Kellogg.— To show that he was not his regular counsel employed in all matters, and that he employed other attorneys.

Mr. Stanchfield.— Is there anything in the charges where Cohalan says that?

Mr. Kellogg.— I understood his answer in the papers was to the effect that he advised him generally throughout that year as to all matters of the concern.

Mr. Stanchfield.— I don't think that is in the phraseology, Judge.

Mr. Kellogg.— I don't know as that is the exact phraseology, but that conveys the idea.

The Chairman.— Read the question.

Mr. Kellogg.— I don't care enough about it to fight over it and waste a lot of time over it. Their objection appearing on the record, I do not care to press it.

The Chairman.— Very well, let it go.

Q. At this time that Mr. Cruikshank was at your office, I find, in reading the minutes at the close of yesterday's session, that I did not ask you this, as to whether these checks, and the check stubs, and the original and the copy of the original complaint, and the memorandum of the statement which you said were there, as to whether they were then actually destroyed, torn up, or what was done with them? A. The checks?

Q. The checks, the check stubs — go ahead and state the checks first. A. The checks were torn up by Mr. Cruikshank into small pieces.

Q. The check stubs? A. And the check stubs after he had torn them out, he tore them up, and threw them on the floor, as I recall it, or into the waste basket, I don't know which one it was.

Q. And the copy of the original complaint, what became of that? A. He took hold of that and tore it up in the same manner he tore the checks.

Q. And the memorandum of the statement of the cause of action? A. I may have torn that up. He handed it to me, and he said, "You needn't have that around, you better destroy it, it don't amount to anything, anyway."

Q. At this time in June, 1909, this evening, at the destruction of the records, from that time, following that time, did you have conversation with Judge Cohalan in regard to your matters? A. After June 1909; yes, sir, after you had — after this evening, when this event took place which you described, as having occurred at your office, or the office of the Victor Heating Company; why, I met him once accidentally at the hearing of the building code before Mayor McClellan in the Council Chamber of the City Hall.

Q. What time was that? A. Whatever time — I believe it was July or August, 1909.

Q. Did you have any interview with him at that time, any conversation? A. No, he spoke to me and I replied in kind.

Q. I want to know if there followed any time when you did have a conversation about any of these matters which we have been discussing in this case? A. That is subsequent to the —

Q. Subsequent to 1909? A. There was nothing occurred except what I referred to in 1909.

Q. 1910 or 1911? A. Well, in 1910 the failure of the business took place and I had nothing to do for —

Mr. Stanchfield.— He is asking you about Judge Cohalan.

Q. Did you talk to Judge Cohalan?

Mr. Stanchfield.— Not what you had to do about it.

The Witness.— Well, certain friends —

Q. No, no, Mr. Connolly. The only question I am asking you —A. I know.

Q. Is your conversation with Judge Cohalan? A. A meeting was arranged for us by a cousin of his, Mr. William J. Burke, October 1, 1910, at 12 m. I did not keep that appointment that day but I did go through the next day and did meet him.

Q. Go where? A. To his office, No. 2 Rector street.

Q. What occurred? A. I believe he brought me into his library and he asked me what happened to the business and I told him.

Q. I want the conversation. A. Do you want me to tell what I told him?

Q. What the conversation between you and Judge Cohalan was? A. I told him that I had failed in business; that there was a steamfitters' strike on, was one reason, and the second reason was I had a subcontract from a builder of the department of health building over in Brooklyn and that he had got great amounts of money on my work but he was very sparse in giving me payments as a continual fact and he exhausted all the cash capital that I had had and then I said I made an effort to try and get the water department back again, but Mr. Burke practically intimated to me that you blocked me; said I was a very nice fellow, but I did not get that work back. That was the beginning of the Gaynor administration, and for the reasons just mentioned, that the business went to the dogs.

Q. Anything further?

Assemblyman Goldberg.— Pardon me. When was that conversation?

The Witness.— November 1, 1910.

Q. Is that the substance of that conversation or was there more of it? A. There was more said.

Q. It only has pertinency as it shows what the relation was and I wish you would state it and state it quickly, all you recall of it? A. I am trying to state the exact conversation and of course I have to think a little. I can give the substance of it. He and I talked politics, about the election, for a while, about the chances for victory, and I told him it looked like a Democratic legislature and he would now have a chance for his life ambition, to be United States Senator, and anything I could do in that line why he could call upon me. He replied, to drop in and see him from time to time, and the interview ended.

Q. Did you as a matter of fact see him after that? A. Oh, I did. I think twice or three times after the election.

Q. Do you remember coming to Albany? A. Yes, I do.

Q. During the session of the Legislature in which the United States Senatorship was involved? A. Yes, I sat in the Assembly chamber the night that they voted.

Q. Did you at that time have an interview with Judge Cohalan on the matter? A. Before I started for Albany?

Q. Or at Albany? A. Oh, yes. We met New Year's Day, I think.

Mr. Kellogg.— I will not go into the details of those conversations.

Senator Wagner.— What night was it that the Assembly voted?

Q. Do you remember what night it was you say the Assembly voted?

Senator Wagner.— Voted on what?

The Witness.— The night of the first ballot for United States Senator.

Senator Wagner.— The first ballot?

The Witness.— The first ballot, as I recall it. It was an evening session.

Senator Wagner.— An evening session.

The Chairman.— The date of that, if you can give it.

Q. Can you give the date of that meeting you attended? A. As I recall it it was January 11th or 12th.

Q. Did you receive any sum of money from Judge Cohalan during that time for your expenses or otherwise?

Mr. Stanchfield.— I object to that as not within the charges.

Mr. Kellogg.— It is not a charge. It is in the nature of showing the relation between the parties. It is alleged here, as I understand it, that Judge Cohalan declined to have anything to do with this man until he gave him the note and estoppel affidavit. That is what was published in the papers. The object of this evidence is to show that the relations were not unfriendly prior to that but that he was here in Albany and Judge Cohalan paid his expenses on that campaign.

Senator Wagner.— Whereabouts is that in the charge?

Mr. Kellogg.— It is not in the charge so much as it is in the reply.

Mr. Stanchfield.— There is not suggested by Connolly in all the signed articles that he has written and published in the New York World anywhere that Cohalan ever paid a dollar. This is one of those irregular transactions like the letter that found no order in any book that he ever had in his whole concern.

Assemblyman Cuvillier.— The only charge submitted is charge 34.

"34. Connolly for some time prior to April, 1911, was in financial difficulties and was desirous of obtaining the aid of said Cohalan in securing an appointment to some public office, and in order to obtain such aid the said Connolly desired to re-establish the friendship which had formerly existed between them."

There is nothing said in there about coming to Albany or assisting Judge Cohalan at all. On the other hand the charges are that Judge Cohalan declined to assist him. There is nothing about Connolly assisting Judge Cohalan at all.

Mr. Kellogg.— I have not succeeded in making my idea clear. There is nothing in the charges, but in the article as I recall it Judge Cohalan said he did not have it in his heart to forgive Connolly until he had done reparation for the wrong he had done him and gave him the note and estoppel affidavit. This is for the purpose of showing that immediately prior to that time there

were friendly relations between these men and Connolly came to Albany on Judge Cohalan's account, and Judge Cohalan reimbursed him for that with his expenses. There is nothing in the nature of a charge. It has some tendency to show, for what it is worth, the relation between those men and a bearing upon the issue as to what that note and the estoppel affidavit were given for.

The Chairman.— Isn't that more in the nature of rebuttal?

Mr. Kellogg.— I don't know. It seems to me it is part of the case.

Mr. Stanchfield.— If you are going to let it go in I would rather you permitted it to go in now, because if we have rebuttal it will keep us a long while. If we have to have it, let us have it now.

The Chairman.— Overruled.

Q. You may state, Mr. Connolly, as to whether or not he paid you any sum of money. I think that was the specific question.

Mr. Stanchfield.— For disbursements at Albany?

Q. For disbursements at Albany? A. Not in his — not in the campaign for United States Senator; I paid my own expenses.
Q. He didn't reimburse you? He didn't reimburse me; I —

Mr. Stanchfield (Interrupting).— Well, now, that answers the question.

Q. Did he make any payment to you at that time for anything, at about that time?

Mr. Stanchfield.— Now, I object to that as irrelevant, immaterial and incompetent.

Mr. Kellogg.— I will show the relation between the parties. I don't see how it could be incompetent, but it may not be very forceful as a probative fact when we get it, but it shows the relation between the parties.

Mr. Stanchfield.— Yes, but it might have been paid for so many reasons.

Mr. Kellogg.— We will find out what it was for. That is what we are trying to do.

Mr. Stanchfield.—Well, I object to that testimony.

Mr. Kellogg.—I think there must be some latitude here in examining a witness of this kind. I don't know what he is going to testify to until I ask him.

The Chairman.—That is going quite far afield, Mr. Kellogg. We will overrule the objection.

Q. Did you pay him money at any time? A. Did I pay him money?

Q. No, he pay you? A. Yes, I went up to Albany on May 22, 1911; I wrote him a letter; I told him that I was going, and I intimated —

Mr. Stanchfield (Interrupting).—Well now, suppose you —

Mr. Kellogg (Interrupting).—No, no; what did you get?

The Witness.—You mean in the letter?

Mr. Stanchfield.—I want the witness, if the Chairman please, directed to answer the question.

The Chairman.—Listen to the question that counsel asks and answer it directly. What was the question.

(The stenographer thereupon read the question referred to as follows): "Q. Did he pay you money at any time.")

The Witness.—He gave me $20 on June 22, 1911.

Q. Was there any conversation as to what it was for at that time? A. Well, he was to help me out in trying to start a new company, and he told me that he would be one of 25 men to help me out, but he said he would be the last man.

Q. Well, at that time he actually gave you — A. (Interrupting) Then he — when he gave me the $20, he said, "I can't give you $100 John, I will give you $20;" and I said that would just about pay my expenses for that trip to Albany to try to attempt to win over Senator Roosevelt.

Q. Now, do you remember having an interview with Judge Cohalan on that day that Judge O'Gorman was elected United States Senator, or about that time? A. Yes, I saw him that day.

Q. Whereabouts? A. In Mr. Murphy's suite in the Ten Eyck Hotel.

Q. Do you know what day of the month it was? A. Why, it was the 31st day of March.

Q. What, if anything, was said at that time in regard to his aspirations for a judicial office, for an appointment to the office of Justice of the Supreme Court. A. Why, he said that O'Gorman was picked upon as the man, and that we are whipping everything in line; it looked very much as if it would be unanimous; and I said, "Well, that looks as if you would be appointed practically in Justice O'Gorman's place"; and he replied, as I recall it, that he would make a try for it, or words to that effect.

Assemblyman Cuvillier.— We can't hear the witness.

The Chairman.— Will the witness speak a little louder?

Mr. Kellogg.— Will the stenographer repeat the answer?

The Chairman.— Read that aloud, so the Committee can hear it.

(The stenographer thereupon read the answer of the witness referred to as follows: "A. Why, he said that O'Gorman was picked upon as the man, and that we are whipping everything in line; it looked very much as if it would be unanimous, and I said. 'Well, that means that you will be appointed practically in Justice O'Gorman's place;' and he replied, as I recall it, that he would make a try for it; or words to that effect.")

Assemblyman Levy.— What was the date of that?

Mr. Stanchfield.— Instead of indicating that there was a desire lurking in the bosom of Cohalan to be a Justice of the Supreme Court, Connolly, for his own purposes and aims, was trying to instill in him ambition to be such; that is the way that evidence would impress us.

Q. I ask you —

Mr. Kellogg.— Is there any question pending?

The Chairman.— No; go ahead.

Mr. Kellogg.— I didn't know but what you were making a motion of some kind, just to relieve your feelings.

Mr. Stanchfield.— There is no necessity for it at the moment.

Q. What newspapers did you take at this time? A. What newspapers did I take?

Q. New York newspapers? A. You mean at my home?

Q. Yes. A. The World and Times.

Q. Do you know whether or not in the New York Times on the date of April 5th, in the morning, there was an article —

The Chairman.— What year was that?

Mr. Kellogg.— 1911.

Q. (Continuing) — to the effect relating to the appointment, probable appointment, or possible appointment of Judge Cohalan; did you notice that in the New York Times at about that date?

A. I recall reading that item.

Q. I ask you if this —

Assemblyman Cuvillier (Interrupting).— I can't hear it.

The Witness.— I recall reading that article in the New York Times on the morning of April 5, 1911.

The Chairman.— Read the last question and answer, Mr. Stenographer.

(The stenographer thereupon read from the record as follows: "Do you know whether or not in the New York Times, in the morning, on the date of April 5, there was an article — The Chairman.— What year was that? Mr. Kellogg.—1911. Q. (Continuing) To the effect relating to the appointment, probable appointment or possible appointment of Judge Cohalan; did you notice that in the New York Times at about that time? A. I recall reading that item.")

Q. I show the witness a paper, and ask him if he believes that to be the article in question? (Counsel passes paper to witness.)

A. (After reading.) I recall reading that.

Q. He says he recalls reading it. Now, you must talk to Mr. Gibbs over there. Those gentlemen want to hear you. A. I recall reading it, Mr. Gibbs.

Mr. Kellogg.— Now, I offer that in evidence.

Mr. Stanchfield.— May I see it?

(Mr. Kellogg passes paper to Mr. Stanchfield.)

Mr. Stanchfield.— He is offering, if the Committee please as I understand it, a clipping in the nature of a special to the New

York Times from Albany, New York, dated April 4, intimating — to the general effect that Mr. Cohalan might have the Supreme Court Judgeship, rendered vacant by the election of Judge O'Gorman, as United States Senator, on the theory, as I understand it, that in some way it militates against the statement of Judge Cohalan, who says that he had no expectation at a certain time of going upon the Supreme Court bench. If the Committee feel that that sort of testimony is to be received in evidence, why I am not going to stand here and controvert it. I suppose that every lawyer in the State of New York, at some time or another, has lurking in his bosom the desire to be upon the Supreme Court Bench. Now, one of the distinguished counsel upon the other side, Mr. Guthrie, would like to be Chief Judge of the Court of Appeals; and I don't know but what every member of the Bar would like judicial office. Judge Kellogg has enjoyed it for a period of time; I think he would like fourteen years more. Now, if that is —

Assemblyman Levy.— You came very close.

The Chairman.— Let the Committee understand what the question is.

Mr. Stanchfield.— He offers that newspaper clipping in evidence.

The Chairman.— It is an offer?

Mr. Stanchfield.— I am not going to object to it, if the Committee want to take it.

Mr. Kellogg.— There is no issue then, unless there is an objection. I think it should be received.

The Chairman.— What is your question?

Mr. Kellogg.— I offered in evidence this newspaper clipping which appears in the Times on the morning of April 5, 1911, which is the very day that this note and estoppel affidavit were given.

The Chairman.— All right. What was Mr. Stanchfield's objection.

Mr. Kellogg.— I don't think he made any.

Mr. Stanchfield.— The judge stated, two or three times, that this was an investigation, and not a trial.

Senator Wagner.— What is it going to prove to this Committee?

Senator Wagner.— What has that to do toward proving any allegation involved here?

Mr. Kellogg.— The purpose is to show that on the 31st of March at a conversation with Judge Cohalan at that time there appeared articles of this sort to show a statement made by Justice Cohalan which appeared in the paper to this effect that "at the time the note and answer were delivered to me at my office 2 Rector street on April 5, 1911, I had no intention or expectancy of receiving a judicial appointment" which has been characterized by the Bar Association as misleading.

The Chairman.— The Chair sustains the objection. It goes to prove nothing.

Q. Now, Mr. Connolly, I wish to call your attention to the transaction of April 5, 1911. I call your attention to a piece of paper which I ask to have marked for identification.

(Paper marked Complainant's Exhibit 42 for identification).

Q. And I ask you if you recognize that (handing witness) A. I do.

Q. Where did you first see that paper? A. In Mr. Cruikshank's office. I made it out there on Mr. Cruikshank's instructions.

Q. Is that in your handwriting and does it bear your signature? A. Every part of it is in my handwriting.

Q. Did you afterward see that in the possession of the respondent, Judge Cohalan? A. Why, no.

Q. But you signed that and delivered it to whom? A. I signed it and delivered it to Mr. Cruikshank.

Mr. Kellogg.— I ask to have this paper marked.

(Paper marked Complainant's Exhibit 43 for identification.)

Q. Did you at or about the time execute that paper (handing paper to witness)? A. I signed that paper before the line was stricken out here "to the knowledge of deponent."

Q. When did these papers subsequently come into your possession? A. In May, 1913.

Q. Now, before you signed this note — these two papers state

what occurred between you and Judge Cohalan? State it in its order and without any further interrogation from me and with definiteness and distinctness and with all that you remember in regard to that matter.

The Chairman.— When was this, what date?

Q. (Continuing.) Fix the date and places. A. Can I talk upon what led up to it?

Q. Yes, that is what I am asking you.

Mr. Stanchfield.— He can talk about what he said to Cohalan.

Mr. Kellogg.— That is what I meant, what he said to Cohalan which led up to it.

Mr. Stanchfield.— What he is asking you is: Did you on or about the date of that note have a conversation with Judge Cohalan which led up to your giving it to Cruikshank, that is the point to it?

A. I wanted to bring in all the things which led up to it.

Mr. Stanchfield.— The conversation with Cohalan is all the Committee will take.

Q. Any conversation you had with Judge Cohalan is all I am asking. Conversations with third parties you cannot give. A. I understand that.

Q. Conversations with Judge Cohalan or in his presence as I understand it, are admissible. Confining yourself to those please state them. A. Well, every time I saw Mr. Cohalan after November 1, 1910, I was very anxious to have him secure for me some position.

Q. Now, did you state that to him? You must only state what you said to him or he said to you? A. Every time that I visited his office, I implored, I beseeched him to try and get me something to do. He intimated that he would see what could be done. I showed him a letter from Charles F. Murphy, from Hot Springs, Va., and let him read it. I had applied for the same position that I had applied for three or four years prior.

The Chairman.—What was that?

The Witness.— It was Corporation Tax Commissioner.

A (Continuing) And he looked at the letter and he said "Mr. Murphy is very sore about that committee that you sent about me to his house; but I will try to win him over." Now that is about all the conversation I had with him during the year 1910. We had two or three, but I recall that. Then in January I was up here in Albany —

By the Chairman:

Q. Before you go further, Mr. Connolly, can you fix the date of that conversation? A. I can fix the date if I saw Mr. Murphy's letter from Hot Springs, because I rather liked the tone of the letter.

Q. You say during the year 1910. Now can you fix the month? A. I think it was the latter end of November.

The Chairman.—All right, proceed.

By Mr. Kellogg:

Q. Proceed. A. In Albany, I implored him to get me something to do, and when I left Albany after two or three days I left a note for him to try and get me the Librarianship of the Assembly, anything at all to help, because I didn't have any money and I wanted a position and I wanted some help, and I asked him to do it, if he didn't do it for me to do it for my wife and children; and I had tears in my eyes as I implored him in the lobby of the Ten Eyck Hotel to do something. He promised he would but he said, "They are crowding in on Mr. Murphy and you better go home and I will see what can be done."

By the Chairman:

Q. Can you give us the date of that, Mr. Connolly? A. Why, it was between — it was right after the 1st of January.

Q. 1911? A. 1911.

By Mr. Kellogg:

Q. Proceed Mr. Connolly, if the Chairman is through.

The Chairman.— I am through.

A. I called at his office when he would be there during January or February. I don't think that I saw him in his office in January; I imagine I saw him in February, 1911, and I recall seeing

him on a Saturday afternoon and I kept at him to try and get me something and he said that he would try; he said that he would try to get me something outside of politics and get my mind off politics, and he intimated to me one day that he came near getting me a job in some office in the Erie Railway at $5,000 a year.

It ran along until March 22, 1911, and he surprised me very much. It was in the morning of that day. He said "John, hand in your note for that money that stands between us and there will be something doing."

"Well," he said, "You hand in your note." I said "I understand the House of Representatives is to convene in special session and there is some position there that you might possibly get me."

He said, "Pass in your note and there will be something doing." I said, "Why, I don't owe you anything, Dan. Anyway, what good would be my note. I haven't got a dollar in the world."

Then he replied, "You do it in the next couple of days and something will be done, but nothing will be done until you do do it."

I left him and I went up to Mr. Cruikshank's house that evening and told him of the demand that Mr. Cohalan ——

Mr. Stanchfield.— Never mind what you said to Mr. Cruikshank.

The Witness.—All right, Mr. Stanchfield. I came back to Mr. Cohalan's this night, a couple of days afterward, after seeing Mr. Cruikshank and I asked him how he wanted the form of the note. "Oh," he said, "Make it four months, payable at one of your banks."

I said "I haven't got any banks or any bank account." I again implored him to do something for me, to get me the position first and then I could give him the note.

He said, "No, you pass in the note."

Now, that was about the substance of the conversations that I had with him at that time.

Q. Was there anything said at either of these times as to the amount of the note? A. Oh, he said something about $4,000 or $4,100 or that amount that lays between us, or words to that effect.

Q. I show you a letter ——

Mr. Kellogg.— I ask to have this marked for identification.

The Chairman.— Wait a moment. I would like to ask a question there.

By the Chairman:

Q. What was your idea in going to Mr. Cruikshank's house that night? A. What was my idea?

Q. Yes. A. To tell him of the strange demand made upon men who didn't have a dollar and ask his advice. That is about all, what I should do under the circumstances.

Assemblyman Goldberg.— What was the date of that conversation?

The Chairman.— March 22, 1911.

Mr. Kellogg.— This last conversation, you mean, when he went to Mr. Cruikshank's house?

The Chairman.— As I understand it now, he met Mr. Cohalan on the 22d of March, 1911, and immediately after the conversation with the Judge he went to Mr. Cruikshank's house.

Mr. Kellogg.— Not at that time.

The Chairman.— Then I misunderstood.

Mr. Stanchfield.— Yes, that is right.

Assemblyman Goldberg.— The same date.

The Chairman.— The same date.

The Witness.— It was an evening call.

Assemblyman Levy.— But it was March 22d, wasn't it, Mr. Connolly?

The Witness.— I think it was. I did not lose any time after the demand made upon me by Mr. Cohalan.

Q. Was it after that that this paper which had been marked for identification, Exhibit 42, and this one which has been marked for identification, Exhibit 43, were executed by you? A. The papers were executed after these conversations that I have related.

Assemblyman Cuvillier.— We cannot hear him, Judge.

The Chairman.— Speak louder.

Mr. Kellogg.— None of these gentlemen hear that.

The Witness.— Is that Mr. Cuvillier?

Mr. Kellogg.— Speak to the last man here, Mr. Gibbs (indicating).

The Witness.— I executed those papers after the conversations that I have repeated.

Q. Did you have any further conversation with Judge Cohalan after the 22d of March and prior to the 5th of April when that note bears date? A. I went back to him to ask him for instructions as to how he wanted the note.

Q. That is what you already stated here, isn't it? A. I have already stated that, yes, sir.

Mr. Kellogg.— I show you this paper, which I ask to have marked for identification.

(Paper marked Exhibit 44 for identification of this date.)

Q. I want to inquire if that in any way refreshes your recollection so you can be more definite about the date of the conversation with Judge Cohalan in regard to getting you a political position which you referred to? A. I showed that letter to Judge Cohalan.

Q. It is important to fix the date? A. I think I said it is—

Q. I ask after looking at that letter if you can be more definite as to the date of the conversation? A. It was two or three days after the receipt of that letter.

Q. It would be after the 20th; two or three days after the 20th of November? A. It would be two or three days after the 20th.

Q. The letter being dated November 19th? A. Yes.

Assemblyman Goldberg.— 1910?

Mr. Kellogg.— Yes. I offer in evidence the note and the affidavit already marked Complainant's Exhibits 42 and 43 for identification.

The note and the affidavit marked respectively Complainant's Exhibit 42 and Complainant's Exhibit 43 were received in evidence and marked Complainant's Exhibits 42 and 43.

Mr. Kellogg.—(reading). The note.

"4,000.00 *April* 5, 1911.

"Four months after date I promise to pay to the order of Daniel F. Cohalan four thousand dollars ($4,000).

Value received.

JOHN A. CONNOLLY."

The affidavit is this (reading):

"CITY AND COUNTY OF NEW YORK, *ss.:*

John A. Connolly, being duly sworn, says he is the maker of a note for four thousand dollars ($4,000) dated this fifth (5th) day of April, 1911, to the order of Daniel F. Cohalan; that there are no defences thereto and no counterclaims or offsets against the same."

The words, "to the knowledge of deponent," following that have been written over that with an erasure line and at the edge appear the initials "A. B. C."

Signed. "JOHN A. CONNOLLY.

Sworn to before me this
5th day of April, 1911.
ELLA DROHAN,
Notary Public, New York County."

Q. At the time the paper was verified by you, were the words "to the knowledge of deponent" unerased? A. Yes.

Q. And did you ever authorize their erasure? A. I never did.

Q. Subsequent to the giving of this note did you have other interviews with Judge Cohalan in regard to the matter of securing aid from him along any line? A. Oh yes, many many times.

Q. State them.

Mr. Stanchfield.— Fix dates as far as you can.

The Witness.— There were a great many. I called upon him the day after he was confirmed by — or the second day after he was confirmed by the State Senate as Supreme Court Justice, and I intimated to him that day that he could possibly get me a position. He never said that he would not. He always said he would try.

Assemblyman Goldberg.— What date was that?

The Chairman.— 1911.

The Witness.— May, 1911. It ran along until — I got employment with the Thompson Starritt Company, June 5, 1911, outside of his influence in any form. In fact, he didn't know I was there until two or three weeks after I had been there.

He went to Europe and I called upon him when he came back, in his chambers, and he was very friendly.

Senator Brown.— We didn't hear that.

The Witness.— He was very friendly and joked with me. He wanted to know if I was head of the concern yet. I told him no. I told him the position did not amount to anything, that I had a really impossible job and that it was hard work to get along and I again requested him to do something.

After the election of 1911 I called upon him, that is, I think it was in December or the latter end of November and I asked him to get me one of the deputy sheriffs. "Oh," he said, "you — I wouldn't — I will get you something better than that. What would you be doing as a deputy sheriff? I will get you a better job than that. That is no job for you."

Then it ran along. In 1912 I called at his residence one evening and asked him to, on account of the pleasant relations that I thought existed between William Temple Emmet, himself and myself, that he could do something for me there, and he was rather cold. I noticed a coolness. He said I had better see Temple myself. It ran along until just prior to the last State convention, Democratic State Convention, and I went down to the pier to meet him. I think it was September 26th and I told him that I wanted to see him on a matter that was very important to me and any time that suited his convenience. "I don't want to say anything to you here," I said, "because you are too rushed."

He said "Tell it to me now. Tell it to me now."

I said I would be out of employment by the 1st of October and that I had a matter in mind from my experience with the Thompson Starrett Company and that he had some influence with Paul Starrett with the Starrett Fuller Company and I wanted an introduction to Paul Starrett.

He told me to drop in, and mentioned the time, and I lost — could not find him anyway, and finally I called upon him at his chambers. He said he would send a man to Mr. Paul Starrett, but it ran along for days, or weeks rather.

I finally got an introduction to Mr. Paul Starrett myself; to one of the directors of the Fuller Company, a gentleman by the name of Mr. Babbage. I got Alexander Walker of the Colonial Bank to give me an introduction and I told Mr. Babbage what I wanted.

Mr. Stanchfield.— Wait a moment. What you said to Judge Cohalan is all he is asking you.

The Witness.— The last time I saw Judge Cohalan, on trying to get me an appointment, he said the man he had sent out stated

that they had no idea at that time of starting a heating and ventilating department of the Fuller Company, but he intimated to me that the man had reported to him, whoever he was, that Mr. Connolly was a likable fellow and Mr. Fuller was to hunt up some other position for him.

Q. Did you secure any appointment? A. From the Fuller Company?

Q. Any political position from anyone? A. Did I procure any?

Q. Yes. A. No, sir.

Q. Do you know Mr. Warren? A. Yes, I know Mr. Lyman E. Warren.

Q. Who is he? A. He is a practicing lawyer in New York city.

Q. And did you consult him in regard to this matter of Judge Cohalan? A. I did.

Q. When? A. In May, 1913.

Q. Where? A. Oh, at his office, at the Columbia Yacht Club and in his residence.

Q. Did you see a letter at that time prepared by Mr. Warren? A. I saw Mr. Warren write the letter.

Q. Written in your presence, this was? A. Yes, sir.

Mr. Kellogg.— Have you this last letter of May?

Mr. Kresel.— I don't believe I have it here; maybe I have.

Mr. Kellogg.— Haven't you got the original? I would like to put in the original, if you have it.

Mr. Kresel.— Well, I haven't it here.

Mr. Kellogg.— You haven't the original here, but this letter printed on the nineteenth page of the proceedings of this Committee is a correct copy?

Mr. Kresel.— That is a correct copy.

Mr. Guthrie.— It is on page 14..

Mr. Kellogg.— It is printed twice, 14th and 19th pages. I offer that letter in evidence.

The said letter, appearing on page 19 of the printed proceedings of the Joint Committee on the Judiciary of the Senate and Assembly in the matter of the investigation demanded by Hon.

Daniel F. Cohalan, a Justice of the Supreme Court of the State of New York, in and for the First Judicial District, was received in evidence and marked Complainant's Exhibit 45, of this date. Said exhibit reads as follows:

"NEW YORK, *May* 19, 1913.

Hon. Daniel F. Cohalan:

"MY DEAR JUDGE.— I have been consulted by Mr. John A. Connolly in regard to a promissory note made by him and delivered to you in April, 1911, said note bearing date April 5, 1911, for $4,000, and accompanied by an estoppel affidavit. His statement to me being that said note was given by him upon your express promise to procure him a position, which you have failed to do, although more than two years have now elapsed.

He states to me this note was given you after you had had some differences arising with the conduct of the Victor Heating Company, which had been therefore adjusted.

"If this statement is correct, I have advised him that he has the right to receive back this note, it being an obligation which might be enforced against him, and he has requested me to bring suit for the surrender and cancellation of this paper, but as experience has taught me there is always two sides to most controversies I declined to bring an action until I had requested a return of the document, and hence this letter is sent you requesting the return of the same, with the estoppel affidavit accompanying it. I am leaving for the Court of Appeals in the morning and shall return on Wednesday, at which time I trust I may have a reply to this communication.

"The note and affidavit can be delivered at my office. Unless I hear from you on or before Thursday A. M., I shall treat your silence as a refusal, and I am instructed by Mr. Connolly to bring an action for its recovery. Trusting this unpleasant duty may be obviated either by delivery of the paper to me as his attorney or that I may be convinced his statement as to its procurement or delivery is incorrect, I beg to remain,

"Very respectfully,

"LYMAN E. WARREN."

Q. Did you subsequently receive this note and affidavit back that we have here? A. I did.

Q. From whom? A. From the hands of Mr. Warren, my lawyer.

Q. I don't suppose.

Mr. Kellogg.— I don't suppose it is necessary for me to read that last letter. It has been printed.

The Chairman.— No, it appears at page 14 of the proceedings.

Q. At the time that the affidavit was signed, I am going back now to April, 1911 — A. (Interrupting).— Yes, sir.

Q. (Continuing) Was this paper which I ask to have marked for identification, delivered to you? (Counsel passes paper to witness.)

The said paper was received for identification and marked Complainant's Exhibit No. 46 of this date.

A. (After examining paper) Yes, Mr. Cruikshank handed me that paper.

Mr. Kellogg.— I offer that in evidence, purported to be a copy of his affidavit.

(Mr. Stanchfield examines paper.)

Mr. Stanchfield.— We object to that as in no way binding upon the respondent, incompetent, irrelevant and immaterial and hearsay.

The Chairman.— What is it?

Mr. Kellogg.— It is marked for identification.

Mr. Stanchfield.— It is a copy of the affidavit.

The Chairman.— Objection sustained.

Mr. Kellogg.— We will have to further substantiate it.

Q. Mr. Connolly, you remember seeing here yesterday an amended complaint, in which it was alleged that Judge Cohalan owed the Victor Heating Company $3,940.55? A. Yes, sir.

Q. At that time, did the Victor Heating Company — or Judge Cohalan, I mean, owe either the Victor Heating Company or yourself, that sum or any part of it?

Mr. Stanchfield.— I object to that question as improper and trying to prove that their own witness committed perjury.

Mr. Kellogg.— Oh, no.

Mr. Stanchfield.— That is exactly what it amounts to.

The Chairman.— Read the question.

Mr. Stanchfield.— That question is entirely improper from any point of view on either side of the case.

(Question repeated.)

Mr. Stanchfield.— That is simply an effort on the part of counsel re-enforced by a suggestion from Mr. Guthrie, to take the sting out of cross-examination.

The Chairman.— What time was that?

Mr. Stanchfield.— That, your Honors, is every particle of bearing that can be had or figured out of this question, and that is all that can be said about it.

Mr. Kellogg.— I want to be heard, when Mr. Stanchfield is through, your Honors. The charge is made here that this affidavit was a false affidavit. Now I propose to ask this witness about it, as I have a right to.

Assemblyman Levy.— You mean the affidavit or the verification?

Mr. Kellogg.— The affidavit, and the verification of the amended complaint, which said that such sum of money was loaned Judge Cohalan by the Victor Heating Company. Certainly, I had a right to prove that.

Mr. Stanchfield.— This, if the Committee please, if anything can reflect upon this witness, after the relation of his evidence here, it goes to that effect and no other; because, in asking that question, they are asking of Connolly, whether or not, when he verified that complaint, he was not knowingly swearing to a false affidavit, which of course was perjury, because that was material.

The Chairman.— If that is so, how does it injure your case, Mr. Stanchfield?

Mr. Stanchfield.— Because it is not proper on the direct examination of this witness, and it ought not to be in the case as in any way reflecting upon this respondent.

Mr. Kellogg.— It appears in the charges here that this thing was false, and I propose to prove it by the man who made it.

Assemblyman Cuvillier.— In the verification he put in, in answer to the charges in the complaint that he did not owe him. Now what do you want to show?

Mr. Kellogg.— I am proposing to show that the statement was not true. If that is so, I do not know what evidence can be more important in this proceeding than that, and this is to be proved by the evidence of the party who made it, and it must be taken for what it is worth, and of course it is not worth much unless corroborated.

The Chairman.— I overrule the objection. Proceed.

Q. At that time did Mr. Cohalan owe the Victor Heating Company that amount of money, or any part of it,— had he loaned the Victor Company —

Mr. Stanchfield.— Just wait a moment. Which way are you going to put that?

Q. Had the Victor Heating Company or yourself, ever loaned Mr. Cohalan at any time the sum of $3,940.55, or any part of that sum, that is the way I originally had it.

Mr. Stanchfield.— I assume that is over my objection?

Mr. Kellogg.— That is the one you objected to? A. No, sir.

Q. When you made your note for $4,000, which has been produced here this morning in evidence, did you personally owe Mr. Cohalan that money, or any part of it? A. No, sir.

Assemblyman Levy.— Will you let me see that note, Judge, please?

Mr. Kellogg.— That concludes the examination, so far as the counsel for the Committee is concerned, unless some gentleman wishes me to ask him something further.

Mr. Stanchfield.— I think the Committee ought to inquire whether any of the other gentlemen also representing the prosecution are desirous of participating in this examination.

The Chairman.— Mr. Guthrie, have you anything further?

Mr. Guthrie.— No.

The Chairman.— Mr. Chrystie, have you any questions to ask?

Mr. Chrystie.— No.

Mr. Kellogg.— Senator Blauvelt would like to have me ask if you have that contract with the World here now?

Mr. Stanchfield.— I have it in my bag here.

Mr. Kellogg.— Can we get it back again?

Mr. Stanchfield.— Do you want that at once?

Mr. Kellogg.— Only thing is that Senator Blauvelt wants to see it.

Mr. Stanchfield.— I won't lose it, Senator; you may see it. Did the Committee intend to adjourn at half past twelve?

The Chairman.— We do.

Mr. Stanchfield.— Is there any objection to adjourning now and coming in half an hour earlier?

The Chairman.— Not a bit.

Mr. Stanchfield.— It would be much more acceptable to us if it might be done that way.

The Chairman.— The Committee will stand adjourned to 1.30 o'clock p. m. sharp, and all witnesses subpoenaed will be here at 1.30 p. m. sharp, please.

Whereupon, at 12 o'clock m. the meeting adjourned to meet again at 1.30 p. m.

AFTERNOON SESSION.

Appearances: Same as before.

The Chairman.— The Committee is now in session. The Committee wishes to announce that there must be no smoking in the room. All ready.

John A. Connolly resumes the stand.

Cross-examination by Mr. Stanchfield:

Q. Mr. Connolly, you said in response to an inquiry from Judge Kellogg, that you were born, if I recollect aright, in Cold Spring, in Putnam county? A. Yes, sir.

Q. Did you receive your education there? A. Part of it.

Q. Well, what part of it? A. I went to the Rock Street school.

Q. Rock Street school. That was what kind of a school? A. Oh, a plain ordinary district school in a country town.

Q. Yes, and from there, with reference to your education, where did you continue? A. I went to the 13th Street Evening High school when I went to New York in 1883.

Assemblyman Cuvillier.— We can't hear him.

Mr. Kellogg.— The Committee can't hear him here.

The Witness.— I attended night school at 13th street, New York city.

Q. In the city of New York after 1883? A. 1884 or 5.

Q. Very well. In other words, you mean by that answer that after you left Cold Spring for New York you continued your education by attending night school in the city of New York? A. Yes, sir.

Q. Did you graduate from the school there? A. I did not.

Q. And you never have had any further or other education by way of schooling than in those two places? A. Not outside of my —

Q. (Interrupting) How old were you when you left Cold Spring? A. Just slightly over 21 years of age.

Q. Were you then married? A. No, sir.

Q. Did you marry after you had moved to the city of New York? A. I married while I was a resident of New York city.

The Chairman.— Mr. Connolly, you must speak louder, we cannot hear you.

The Witness.— Oh, I beg your pardon.

Mr. Kellogg.— I wonder if it would not be better to have the witness in front, in the center of the room?

The Chairman.— No objection, not a bit of it; he was put over there, so as not to have his back to the counsel.

The Witness.— I will talk up so you can hear me.

Q. You say you were about 21 years of age when you left Cold Spring. How old were you when you stopped going to school in Cold Spring? A. Why, I left Cold Spring once, Mr.

Stanchfield, and went to work heating rivets in the West Point foundry.

Q. I am coming to your trade in a moment. I am asking you now how old you were when you stopped going to school at Cold Spring. About, I don't expect you to state exactly. A. Why, 16 or 17.

Q. About 16 or 17 years of age? A. Yes, sir.

Q. What trade did you take up? A. What trade did I originally take up?

Q. Yes. A. Well, I started to learn the — I started to learn the boilermaking trade.

Q. Did you follow that for quite some time? A. No, I only got 50 cents a day, and I left the job to go over to West Point and dig ditches at $1 a day.

Q. Well, we will get along a great deal faster if you will simply answer my questions. I want to know if you acquired the boilermaker's trade? A. No, only a part of it.

Q. When did you take on or take up the trade of a plumber and a gasfitter, a steamfitter? A. (No answer.)

Q. Before you left Cold Spring? A. Oh, before I left Cold Spring, yes, sir.

Q. Then you followed the trade of a plumber at Cold Spring? A. I was apprenticed to learn the trade.

Q. To learn the trade of plumbing and steamfitting? A. No, gasfitting.

Q. Gasfitting. Now, when you moved to New York, at 21, did you continue following that same trade? A. No, sir; I went into the heating and ventilating business.

Q. You went then into the heating and ventilating business? A. Yes, sir.

Q. Do you recollect whether you were in business first on your own account, or whether you were in the employ of someone else? A. Oh, I was in the employ of the Golds Heater Manufacturing Company.

Q. From that time on — that would be 1883 or 1884, according to your recollection? A. 1883.

Q. You followed down until the dissolution or closing up of the Victor Heating Company in 1910, the trade of plumbing, steamfitting and gasfitting? A. No, sir, only steamfitting.

Q. Only steamfitting? A. Yes, sir.

Q. When did you begin steamfitting exclusively, soon after you went to New York? A. The next morning after I left.

Q. Did you follow your trade or vocation of a plumber at all in New York? A. No, sir.

Q. Were you in the employ of someone else in the city of New York, down until the year of the formation of the Victor Heating Company, about 1900? A. Oh, yes.

Q. Working for the same concern, or different concerns? A. Different concerns.

Q. And I take it in the meantime you had married? A. I was married in 1890.

Q. In 1890? A. Yes.

Q. This corporation of the Victor Heating Company was formed in 1900? A. Yes, sir.

Q. What was its capitalization? A. $10,000.

Q. $10,000? A. As I recall it.

Q. The shares $100 each? A. Yes, sir.

Q. Who were the stockholders in the Victor Heating Company when you — when you say $10,000, was that the actual or authorized? A. The authorized.

Q. How much stock was actually issued? A. $5,000 — 50 shares.

Q. 50 shares. Who were the stockholders in that corporation at the time of its formation? A. Myself, Victor Williamson and George O'Hanlon.

Q. How many shares did you have? A. I started off with 10.

Q. And how many did Mr. Williamson have? A. Ten.

Q. And Mr. O'Hanlon. A. Ten.

Q. That makes thirty. What became of the other twenty? A. Mr. O'Hanlon in February of the following year, 1901, put up $700, and got seven additional shares, and I did the same thing.

Q. You took out then seven shares more? A. Yes, sir.

Q. And now, was there anyone else a stockholder in the enterprise? A. At that time?

Q. Yes. A. Mr. Williamson was.

Q. Well, you have named him. Anyone else? A. No, sir. Not —

Q. (Interrupting)— You named Williamson, yourself, and O'Hanlon. Now was there anyone else at that time, about the time of the formation of the company? A. No, nobody except the three men.

Q. When did Williamson go out about? A. I think it was in February, 1901.

Q. Who took his stock holdings? A. (No answer.)

Q. How much, ten shares you say? A. I think Mr. O'Hanlon purchased five and I purchased the other five.

Q. So that you and Mr. O'Hanlon remained right along, holding the same number of shares of stock in this concern? A. Yes, sir.

Q. Well, now, you soon thereafter took in Judge Southard, of Putnam county, did you not? A. After Mr. Williamson got out.

Q. Judge Southard was a resident of Putnam county? A. Yes, sir.

Q. Was he at that time the County Judge of Putnam county? A. Yes, sir.

Q. Now, how many shares were issued to him? A. Two, I believe.

Q. And that left, after he — after the two shares were issued to him, that left you how many and Mr. O'Hanlon how many? A. That — well, there was 10, 7 and 5, is 22, and 22 is 44, and 2 to Judge Southard is 46.

Q. Now, do you recollect who took the remaining 4? A. Mr. O'Hanlon and I. Mr. Southard fixed it up with a resolution, as I recall it.

Q. And the remaining four were issued to Mr. O'Hanlon? A. No, I think two to Mr. O'Hanlon and two to myself.

Q. And two to you? A. Yes, sir.

Q. Was Judge Southard elected a member of the Board of Directors? A. Yes, sir.

Q. How many directors were there? A. Three.

Q. And was O'Hanlon a director? A. Yes, sir.

Q. And you three continued to be directors down until the time when O'Hanlon instituted the litigation against you and you took over his stock? A. Yes, sir.

Q. And Judge Southard continued a director down until the time of the failure of the concern in 1910? A. I believe so.

Q. Was there any director elected subsequent to the time when O'Hanlon went out and you took over his stock holdings? A. Yes, sir.

Q. Whom? A. Mrs. Connolly.

Q. Mrs. who? A. Connolly.

Q. Your wife? A. My wife.

Q. Did you transfer to her some of the stock? A. I believe so.

Q. Now what year was it when O'Hanlon went out? A. 1904.

Q. What part of 1904? A. May.

Q. May, 1904? A. Yes, sir.

Q. And did you transfer, at that time, his stockholdings to Mrs. Connolly? A. His stockholdings?

Q. Yes. You took over Mr. O'Hanlon's, his holdings, you told me? A. Yes, not in May, 1904.

Q. When? A. O'Hanlon — I told you that O'Hanlon left.

Q. In May, 1904? A. In May, 1904.

Q. When did you acquire his stock? A. I think in September, 1904.

Q. And at that time was it transferred to Mrs. Connolly? A. I believe so.

Q. And remained in her name down until the closing up of the concern? A. Oh, I think she resigned as secretary to let Dr. Cutter go in.

Q. Did she continue her stockholdings down until that time? A. I believe so.

Q. Now, over all the years of the life of this corporation you were its president? A. I was its president; yes, sir.

Q. What function did O'Hanlon serve in the corporation? A. I believe he was treasurer and a director.

Q. Was he also secretary? A. I think so at one time or another.

Q. Did he spend all of his time at the offices of the company? A. Practically all.

Q. Was he a salaried employee of the concern? A. He drew his salary.

Q. I asked you if he was a salaried employee of the concern? A. Salaried employee?

Q. Yes, sir; was he paid a salary? A. He was.

Q. And were you paid a salary? A. I was.

Q. Now in addition to those salaries as officers, you had employees, did you not? A. Yes, sir.

Q. Of one kind and another? A. Yes, sir.

Q. Generally speaking, about how many? A. You mean the mechanics and office force?

Q. Yes, all told? A. Oh, it varied.

Q. Varied according to the work? A. Yes, sir.

Q. That you had to perform? A. Yes, sir.

Q. Now before the year 1904, from 1900 to 1904, you did no work for the city of New York? A. Prior to 1904?

Q. Yes. A. At the very beginning of our business we started to do work for the city of New York.

Q. That is in 1900? A. Yes, sir.

Q. Did you testify here yesterday in response to an inquiry from Judge Kellogg that you did no city work until 1904? A. I don't believe I did. I did no city work in those two departments that were under discussion.

Q. But you did do city work in other departments before 1904? A. I did.

Q. In the line of the work of the corporation — steamfitting? A. Yes, sir.

Q. You also did work for private customers? A. Yes, sir.

Q. Did you do a fairly good business? A. Well, I would not say so, Mr. Stanchfield.

Q. How will you characterize it? A. Well, we started off in a very small way.

Q. Did it grow by degrees? A. It grew, yes.

Q. For what departments of the city did you do work before 1904? A. The health department; the department of education; I am not quite positive about the fire department; I don't believe that we did that.

Q. You did for the health department and the department of education some work? A. Yes, sir.

Q. You regarded yourself, did you not, Mr. Connolly, as expert in the line of your trade as a steamfitter well qualified to perform it? A. Yes.

Q. You were a judge of good work in that line? A. I was.

Q. You employed first class mechanics to do your work? A. I always tried to.

Q. Always tried to down until the time when you stopped business in 1910, did you not? A. Yes, sir.

Q. You tried always to render first class service to the people that employed you? A. Yes, sir.

Q. Now, in all work that you have done for the City of New York, whether before 1904 or subsequent to 1904, you have tried to do efficient, workmanlike jobs, have you not? A. Yes, sir.

Q. Have you, Mr. Connolly, in the work that you have done for the city, charged the reasonable and going prices of men in your line of business? A. I believe so.

Q. You never in any way have intended to overcharge the city any more than you have individuals, have you? A. I don't think so.

Q. And when you stepped aside from the work you were doing for the Public Buildings Department and took on some work under orders from the Water, Gas & Electricity Departments you familiarized yourself with the prices that had been paid by the city to the Worthington people and to the Blake people, did you not? A. Yes, sir.

Q. So that you were conversant with the prices that the city had been regularly paying? A. Yes, sir.

Q. And you also familiarized yourself with the profits that naturally would be expected to flow from those prices, did you not? A. Yes, sir.

Q. Now, you met Mr. Cohalan, in those days, back in what year? A. 1897.

Q. Met him at the city of New York? A. Yes, sir.

Q. He was born where? A. He was born where?

Q. Yes. A. I understood in New York City, 13th street.

Q. He was born there? A. So I understand.

Q. Well, your understanding would be, then, that he was a native of New York City, is that right? A. As I understood it, he was born there, and shortly afterwards they moved to Middletown.

Q. And then from Middletown back to New York? A. So I believe.

Q. Now, where did you meet him in 1897? A. In the — in an uptown club.

Q. And when you say an uptown club, what club? A. The Catholic Club.

Q. Catholic Club. You and Mr. Cohalan are both Catholics? A. Yes, sir.

Q. Were you a member of the Club in 1897? A. Yes, sir.

Q. Your acquaintance with Mr. Cohalan ripened into intimacy, did it not? A. Why, I should say so, yes.

Q. You became very friendly with him, very much attached to him, did you not? A. Yes, sir.

Q. And that intimate, close relationship continued right along down till at least 1904? A. Yes, it continued until 1904.

Q. Did you belong to the same political party with which he affiliated? A. At what time, Mr. Stanchfield?

Q. Down to 1904? A. Well, when I first met him, I thought he was —

Q. No, I am asking you now if you and he from the time of your acquaintance in 1897 down to 1904 belonged to the same political faith or party? A. Well, I purported to be a Democrat.

Q. Well, you purported to be a Democrat. Do you mean by that that you were a Democrat in disguise? A. (No answer.)

Q. When you say you purported to be a Democrat, what do you mean by that, that you were a Democrat or Republican, or someone else? A. If Democracy means to vote for you when you ran for Governor, Mr. Stanchfield, I was a Democrat. (Laughter.)

Q. That was a pretty good test. I will ask you again whether you considered yourself as a Democrat right along during that period. I should not be spending this time, except you injected the words "purported to be," and I wanted to know whether you were a Democrat or not? A. It is so hard to characterize Democracy. I was supposed to belong to the Democratic party.

Q. Then I will assume from your answer that when you say that, you stepped over into other parties and voted the other ticket? A. If necessary, I did. If I thought I was right.

Q. If it coincided with your judgment? A. Coincided with my views.

Q. Well, with your views. I will take it that way. You might at times step aside. That is about a fair statement, is it? A. Yes.

Q. Aside from your acquaintance with Mr. Cohalan at the Club, you visited him in a social way at his house, did you not? A. You mean now his father's home, or his own home?

Q. I mean anywhere? A. I visited him at his father's home, and I visited him at his apartments at 98th street and Madison avenue.

Q. Judge Cohalan at that time was a married man, in 1900? A. I do not think he was in 1900.

Q. Well, soon thereafter. Do you know about when? A. I think it was 1901 or 1902 he got married.

Q. You were sufficiently intimate with him that you would congratulate him upon the birth of children from time to time, wouldn't you? A. Yes.

Q. You have made several allusions here to the fact that you were a married man with children to support. You knew he was also? A. Yes, sir.

Q. With a large family of children. A. Yes, sir.

Q. In 1903 or the fall of that year you had a strike in your concern, did you not? A. During a strike of the steamfitting trade.

Q. A strike in the steamfitting trade, we will take it that way? A. It was universal.

Q. That interfered with your business? A. It did.

Q. And the Victor Heating Company had not much work to perform in the fall of 1903? A. Oh, we had work to perform, but we could not perform it.

Q. Well, you could not perform it. We will take it that way. You were looking for more, weren't you? A. Yes; always looking for more.

Q. Anxious to get work? A. Anxious, very anxious to get it.

Q. Looking for somebody who could assist you in getting work? A. Always.

Q. That has been true of your life, has it, at least so far as the Victor Heating Company is concerned? A. Yes, sir, not the companies I was with prior to that.

Q. Or before that? A. Or subsequent.

Q. You knew in 1903 that Judge Cohalan had been supporting the mayoralty candidate of that year? A. Yes. Oh, well, mayoralty candidate is hardly specific enough.

Q. Who was it in 1903? A. On what ticket?

Q. On the Democratic ticket? A. Mayor McClellan.

Q. You knew Cohalan had been supporting him? A. Yes, sir.

Q. Quite ardently and earnestly, didn't you? A. Yes, sir.

Q. You were a Democrat that fall, weren't you, or didn't voting for McClellan comport with your views? A. I am thinking of —

Q. Never mind about that. Let us have about McClellan. A. In 1901 —

Q. Did you vote for McClellan? A. I voted for McClellan, yes.

Q. Very well. Now, as soon as that election was over with, the latter part of that year you called upon Cohalan to solicit his aid in obtaining work in your line from the city of New York? A. Yes, sir.

Q. Cohalan knew what your business was? A. Yes, sir.

Q. You had talked with him about it, hadn't you? A. I did.

Q. In your social intimacy with him at the club and at other places that you talked in a general way with Cohalan about the nature and the character of the work in which you were engaged? A. Yes, sir.

Q. You were always ambitious to get work; just as ambitious as you have been to get political place in your lifetime, weren't you? A. Well, I would rather have — I was ambitious to get work, if you call it ambition.

Q. And you had taken pains from time to time to impress upon Cohalan your competency and fitness to do work in the contracting line in which you were engaged? A. Yes, sir.

Q. Now, when you called upon him in the late fall of 1903, the substance of your interview with him was that you wanted him to assist you in getting some work from the city? A. Yes, sir.

Q. Did you specify at the time the departments in which you would like to get work? A. I spoke about the borough president's office.

Q. Yes; that would be the department having charge of public buildings? A. Yes, sir.

Q. Did you mention any other department at the time? A. I don't believe I did.

Q. Now, that was a very brief conversation with him, was it not; about, in substance, as I have stated it here? A. It would be brief, that particular point, yes.

Q. And what response at that time did Mr. Cohalan make? A. I think he told me he would look into the matter and see what could be done.

Q. And see what could be done. Perfectly — your relations at that time were close and intimate as you have said? A. Yes, sir, I thought so.

Q. Now, you saw him soon afterward? A. Yes, sir.

Q. And it was at that conversation afterward in which you say that he made to you a proposition that he wanted half of the stock in your corporation? A. Yes, sir.

Q. Had you told him the capitalization of your corporation? A. Oh, I might have.

Q. Well, had you? A. I don't recall that, Mr. Stanchfield.

Q. Had you told him how much stock of that corporation was outstanding? A. I don't believe I did.

Q. Now, without any knowledge lodged by you in Cohalan's

mind upon that subject, your testimony under oath is here that he asked you as a condition to obtaining work for you that you should turn over to him one-half the stock of your corporation? A. Yes, sir.

Q. You told him that, in substance, that you would have to submit that to your directorate? A. Yes, sir.

Q. Now, you had a directors' meeting, didn't you? A. Yes, sir.

Q. Were you present? A. I was.

Q. And O'Hanlon? A. Yes, sir.

Q. And Judge Southard? A. Yes, sir.

Q. And you submitted to them this proposition? A. I did.

Q. Now, they declined to accept it as a Board? A. We all declined — we all —

Q. (Interrupting) I say, as a Board you declined to accept the proposition? A. There was a —

Q. (Interrupting) If I don't make that plain, the three directors sitting as a Board of Directors declined to accept that proposition, is that right? A. No, it is not; they empowered me at that meeting to see Mr. Cohalan, I think, and talk with him, but the general impression that I gained and the general feeling that I had that we were very much against giving him half of our business that we had tried to build up.

Q. Half of the stock, in other words? A. Half of the stock, or half of the —

Q. Is it a fact that you did not take any corporate action upon that proposition? A. I would call it an informal meeting, Mr. Stanchfield.

Q. Did you take any action at all that was spread upon the minutes of the corporation? A. I don't think so.

Q. You simply, in an informal way, declined to accept that proposition, is that the idea? A. That is correct.

Q. Did you say to Judge Southard at that time, or to O'Hanlon, that you were going back to Cohalan and make offer to him of 55 per cent.? A. Not at that time.

Q. Wait a minute. Of the net profits of such business as he might obtain for you from the city? A. Not at that meeting.

Q. Not at that meeting? A. No, sir.

Q. When you did see Judge Cohalan, or Mr. Cohalan at that time, again, you, of your own volition, did make this offer of 55 per cent. to him? A. No, sir.

Q. Did you talk with him upon the subject of that amount? A. I told him we had a meeting, and the board of directors wanted to see him and talk it over.

Q. Yes, I understand that. And he told you he would not see anybody but you? A. Yes, sir.

Q. I am not concerned about that. That is a very trivial detail. All I want to know is if you, after the board had declined the proposition you went to Cohalan of your own volition, with your own authority, and offered Cohalan this 55 per cent.? A. Yes, sir, by —

Q. That offer came from you? A. By a letter.

Q. I say that offer came from you? We will get at the letter in a few moments. That offer came from you? A. Acting in concert with Mr. O'Hanlon.

Q. Was the letter signed by Mr. O'Hanlon? A. I don't believe it was.

Q. Then I will repeat my inquiry, that offer came from you? A. Yes, sir.

Q. It was not an offer that you and Cohalan had discussed at all? A. No, sir.

Q. You simply tendered 55 per cent. of the net profits of the business he obtained, to him? A. As a counter offer.

Q. There was no discussion between you and O'Hanlon upon that subject at all? A. Upon what subject?

Q. Upon the subject of the 55 per cent.? A. Oh, yes, there was.

Q. I mean, with Cohalan, strike that out, Mr. Stenographer. I mean with Cohalan? A. No, sir.

Q. The only way in which he was apprised of what you were willing to do was by the sending of this alleged letter? A. Yes, sir.

Q. You didn't consult either your co-director upon that subject, Judge Southard? A. No, we did not.

Q. Now you have testified here that a letter was mailed by you to Mr. Cohalan at that time, making him proffer of this 55 per cent., haven't you? A. Yes, sir.

Q. Did you dictate that letter? A. I did.

Q. At the office of the Victor Heating Company? A. Yes, sir.

Q. To whom did you dictate it? A. To Mr. O'Hanlon.

Q. Was he a stenographer? A. Well, he was —

Q. Answer me, was he a stenographer? A. He was not.

Q. Now, did you have in the office at the time, a typewriting machine? A. Yes, sir.

Q. What sort of a machine was it? A. Why, I think we had a Remington, and what Mr. O'Hanlon has called a Lambert.

Q. A Lambert? A. Yes, sir.

Q. Were you able to operate either of those machines? A. No, sir, I never tried to.

Q. Did O'Hanlon operate them, or either of them? A. O'Hanlon could operate both of them.

Q. And did he from time to time operate both of them? A. I believe so.

Q. Did you have any other assistants in the running of those machines for stenographers than Mr. O'Hanlon? A. Oh, we employed —

Q. At that time, at that particular time? A. I don't believe we had a stenographer at that time, Mr. Stanchfield.

Q. Did O'Hanlon take down the contents of that letter on the machine? A. Yes, sir.

Q. As you dictated it to him? A. Well, I either dictated it or wrote it on a scrap of paper.

Q. For him to copy? A. For him to copy.

Q. On the machine? A. On the machine.

Q. Do you recollect what kind of paper that was used? A. Yes, sir, I do.

Q. You recollect in particular the heading on the sheet of paper, do you not? A. Yes, sir.

Q. It was an old sheet of paper, bearing the heading of the Putnam Agricultural Society, was it not? A. Horticultural Society.

Q. Horticultural Society. Did it have the printed year on it? A. I think it did.

Q. Now you have told me and Judge Kellogg every word of conversation that you had with Mr. Cohalan about getting you business from the city when he said he wanted one-half of the stock, haven't you? A. Every bit of it?

Q. Yes. A. As near as I can recollect, as best I can.

Q. Just exercise your memory again. Can you recollect a single other thing that was said in the talk between you and Cohalan when he asked one-half of the stock of your corporation, than what you have stated before this Committee? A. I think I have stated it all, Mr. Stanchfield.

Q. You have been asked about it all by Judge Kellogg? A. I believe I have.

Q. And I am repeating it now, and you have stated everything that was said between you and Cohalan when you went down there, and he said he would look into it, and told you that he wanted one-half of the stock of your corporation? That is true, is it? A. You put it that I stated everything?

Q. Yes. A. I stated everything that I could recollect, Mr. Stanchfield.

Q. Can you recollect anything that you omitted to state? A. No, sir.

Q. Is there a single word or sentence that you have omitted from what you claim Cohalan said to you upon that occasion? A. None that I can recollect now.

Q. You have tried to state it all? A. I have tried, yes.

Q. Your best recollection is that you have stated it all. A. Yes.

Q. And you are unable at this moment, even under my constant inquiry, to recollect another word that he said upon that occasion, or you to him? A. Well, he may have said many words, and he may have said many also, but I recollect the substance of it, and the strange request, as I considered it.

Q. I am not asking you whether it was strange or normal, I am asking you if you have told the conversation and the whole of it? If you haven't, complete it. A. I have told all that I can recall.

Q. Now, this letterhead upon which this letter was taken down, was not the business paper of the Victor Heating Company, was it? A. No, sir.

Q. Why didn't you use the paper of the Victor Heating Company? A. Why?

Q. Yes. A. Because I didn't want such a transaction to appear.

Q. Why not? Why not? A. Why not? Because I didn't think it was a proper transaction.

Q. Why not? A. I thought it was an abnormal demand for political influence.

Q. A what? A. An abnormal —

Q. An abnormal demand for political influence. Was there anything said in your conversation with Cohalan when he asked one-half of your corporate stock about political influence? Now answer me? A. I knew he had —

Q. Answer me. Was there anything said in the conversation you had with Cohalan about political influence? A. (No answer).

Q. It was a pure question of whether he said anything about it. I am not running into your flights of fancy. Did he say anything about it? A. He said he would look into it.

Q. Very well. That is all he said. Do you say here, under your oath to the Committee that are listening to your story, that in a proposition that you made to Cohalan of your own volition, without any request from him to give him 55 per cent. of the net profit of such work he could obtain from the city for the firm there was anything immoral or abnormal or that you would care to conceal or hide? A. (No answer).

Q. Answer me, please. A. I did not want anybody to know of it outside of Mr. O'Hanlon and myself.

Q. You permitted O'Hanlon to know about it? A. I did. He was a director and a partner of mine.

Q. A director and a stockholder you mean, in the same corporation with you? A. Yes, sir.

Q. He was not a partner of yours, was he? A. I considered him my partner.

Q. Well, we will take it that way. He had no other relation to you except that he was a stockholder in that concern with you? A. Stockholder in the same line of business and director, that we were both in.

Q. But using the word partner in a technical sense, you had no other partnership except such as consisted of a corporate holding of stock? A. None at all.

Q. Cohalan never having mentioned political influence to you, I will ask you again why you in making this offer to Mr. Cohalan, which he had not solicited from you, did not use the regular stationery of your concern and put it regularly upon the books of your corporation? A. After the turn down of the stock proposition I felt that he should be made a counter offer and that if I gave him something in writing that he might be spurred on to do something for us on account of his political influence.

Q. Is that the only answer that you can give as to why you did not enter that in the regular way and in the regular course upon the books of your company? A. I did not want it to appear on the books of the company.

Q. I have heard you say that, but I am asking you if that is the only reason you did not want it to appear; the only reason you can give for not wanting it to appear? A. It is sufficient reason, I believe.

Q. That is the only reason you can give. Other people will judge of its sufficiency. A. At this time it is the only one that I can think of.

Q. It is the only one you can give, yes. If your story is to be believed, you did make a copy of it, didn't you, in the letter book of your company? A. Yes.

Q. Who made that copy? In the letter book of the company? A. I made a copy of it. Whether it was in the letter book of the company or a personal letter book I do not now know.

Mr. Stanchfield.— Read the answer.

(Answer read by the stenographer.)

Q. Did you make a copy? Did you do the physical manual work of making a copy? A. I think I did.

Q. When? A. Right after the time the letter was written.

Q. In the presence of Mr. O'Hanlon? A. I believe so.

Q. What did you have there to make the copy with? A. An ordinary letter press.

Q. Yes. You made it in Mr. O'Hanlon's presence? A. I think I did.

Q. Mr. Connolly, you have been interrogated upon this subject before the Bar Association, haven't you? A. Yes.

Q. And Mr. O'Hanlon was sent for at your instance by the Bar Association, wasn't he? A. At my instance?

Q. Yes. A. Oh, I had no power to order the Bar Association to send for anybody.

Q. No, no. At your suggestion. We will get at power later. At your suggestion? A. (No answer.)

Q. Didn't you suggest O'Hanlon's name to the Bar Association, and when I say that I mean some of its representatives, that O'Hanlon could corroborate that story of yours as to the writing of that letter? A. Yes.

Q. Certainly? A. I felt he would corroborate it.

Q. You so told them, didn't you? A. I believe — I was under that impression.

Q. And you suggested to them that they send for him, didn't you? A. I am not clear on the suggestive part of it.

Q. But he came there? A. He came there.

Q. Was he there in your presence? A. He was.

Q. Did you hear him asked whether he had written such a letter as you were talking about? A. He was asked that.

Q. Did he say he did not recollect writing any such letter? A. I think that is in the testimony, Mr. Stanchfield.

Q. I am not asking you what was in the testimony.

Assemblyman Levy.— What is that answer?

Mr. Stanchfield.— We said "I think that is in the testimony."

Q. I am not asking you what was in the testimony. I am asking you if you did not hear him say before representatives of the Bar Association, in answer to their inquiry, that he did not recollect writing this letter tendering Cohalan 55 per cent. of the net profits of such work as he might obtain from the city? A. I think that is correct, Mr. Stanchfield.

Q. Now, I asked you yesterday for a copy of the contract between you and the Press Publishing Company, or the New York World, do you remember? A. I recall it distinctly.

Q. And you handed me the paper dated January 3, 1913. (Counsel passes paper to witness.) A. Yes; you can have the original, Mr. Stanchfield, if you want it.

Q. A copy will serve my purposes. I am not interested in the original. That is a copy, isn't it? That is all I am keen about. A. (after examining) Yes, sir.

Mr. Stanchfield.— I offer that in evidence. You have seen it, haven't you?

Mr. Kellogg.— I never have seen it. No, I gave it right to you.

(Mr. Kellogg examines paper.)

Mr. Kellogg.— Are you going to read it?

Mr. Stanchfield.— Yes.

Mr. Kellogg.— I have no objection to it, only I want to know what is in it, that is all.

The paper was received in evidence and marked Respondent's Exhibit A of this date. Said Exhibit reads as follows:

"AGREEMENT BETWEEN CONNOLLY AND THE PRESS PUBLISHING COMPANY.

Agreement, made this third day of January, 1913, between John A. Connolly of the city of New York and The Press Publishing Company (New York World).

Witnesseth:

Whereas, John A. Connolly has in his possession certain documents and facts bearing on matters affecting the public welfare,

the publication of which if corroborated by evidence he claims is obtainable with his aid, will be a public service, and has this day delivered certain of the papers and documents to the undersigned,

Now, therefore, The Press Publishing Company agrees in exchange for the said documents and all of the other information in the possession of Mr. Connolly or obtainable by him in the premises to pay him one thousand ($1,000) dollars in cash at once on the signing of this agreement, and will give him employment in connection with the rental of the Pulitizer Building and its custodianship in such capacities as he may qualify for, from and after the date hereof, and will pay him therefor, at the rate of three thousand ($3,000) dollars a year for a total period of three years; and in the event of his death after four months but during the remaining contract period The Press Publishing Company agrees to pay the remaining salary to his legal heirs or representatives.

In addition to this, The Press Publishing Company agrees to pay to said Connolly a commission of 5 per cent. of the collected net rental for the first year of occupancy of any tenants secured for the Pulitzer Building by Mr. Connolly. This commission shall be payable only to him personally.

Said Connolly agrees to devote his entire time and energy during this agreement to the investigation and subsequently to the other duties.

But in the event that the investigation made by said Connolly or such investigation as we may make independently or in conjunction with him, does not after four months from date develop facts justifying the contemplated publication in the judgment of The Press Publishing Company, this agreement shall then and there terminate, and any of said Connolly's papers in the possession of The Press Publishing Company shall be forthwith returned to him.

The Press Publishing Company shall be the sole judge of whether the facts developed by the investigation justify publication.

The services of said Connolly in making these investigations and the developments of the same are to be exclusively for The Press Publishing Company.

Said Connolly has the right and option to declare this agreement at an end and terminate same without liability for damages after four months on giving The Press Publishing Company thirty

days' notice of his intention to do so; but if during this four months he does not diligently and faithfully pursue the investigation and corroboration, he shall return to The Press Publishing Company all moneys paid him.

This to bind the parties hereto, their legal representatives and successors.

IN WITNESS WHEREOF, We have hereunto set our hands the day and year first above written.

THE PRESS PUBLISHING COMPANY,
By Ralph Pulitzer, President.

Witness: F. D. White.

JOHN A. CONNOLLY.

Witness: O. B. Pine.

Endorsed:

AGREEMENT BETWEEN JOHN A. CONNOLLY AND THE PRESS PUBLISHING COMPANY,

January 3, 1913."

Mr. Stanchfield.— With the Committee's permission, I will read this contract.

(Mr. Stanchfield read Exhibit A.)

Assemblyman Levy.— Mr. Stanchfield, will you be good enough to read the last sentence of the paragraph preceding the clause dealing with the binding of heirs.

Mr. Stanchfield (reading).— "Said Connolly has the right and option to declare this agreement at an end and terminate same without liability for damages after four months, on giving the Press Publishing Company thirty days' notice of his intention to do so, but if during this four months he does not diligently and faithfully pursue the investigation and corroboration, he shall return to the Press Publishing Company all moneys paid him."

Assemblyman Goldberg.—What is the date of that, Mr. Stanchfield?

Mr. Stanchfield.— January 3, 1913.

Q. Now, Mr. Connolly, when I spoke of your being at the Bar Association when Mr. O'Hanlon was present there, you were

under contract diligently and faithfully to pursue corroboration, were you not? A. Yes, sir.

Q. And if you didn't do it, you would have to refund $1,000 that you got? A. No, that isn't correct, Mr. Stanchfield. After four months, after four months had elapsed. My contract was good.

Q. You would have to give 30 days' notice, wouldn't you? A. What?

Q. You would have to give 30 days' notice after the four months, before it would terminate, would you not? A. If I wanted to terminate it, but I had diligently performed the services for four months.

Q. Well, then, when you suggested to the Bar Association that Mr. O'Hanlon might corroborate you, had you ceased to be diligent? A. No, I was very diligent.

Q. Very diligent. Now, when this contract — this contract is dated on the 3d day of January, 1913. I notice that it is signed by Mr. Ralph Pulitzer. On what date did you first meet Mr. Ralph Pulitzer? A. December 18th or 20th.

Q. Along about December 18th or 20th. Now, whom did you first see connected with the New York World about this story? A. Mr. Fletcher.

Q. Who is Mr. Fletcher? A. Private secretary to Mr. Pulitzer.

Q. When did you first see Mr. Fletcher? A. I think a day or two prior to seeing Mr. Pulitzer.

Q. Did Mr. Fletcher send for you? A. Mr.— yes, that is, he sent me a letter.

Q. He sent you a letter. Have you got the letter? A. I have.

Q. Have you got it with you? A. No; it is down at the hotel.

Q. Will you produce it? A. I will.

Q. I would like to see it. You say that was a day or two before you met Mr. Ralph Pulitzer? A. Yes, sir.

Q. Did you go to see Mr. Fletcher in answer to the letter? A. I — the letter suggested that I call him up on the phone, and he would give me the best hour to see Mr. Pulitzer, as I recall it.

Q. Didn't you see Fletcher at all before you saw Mr. Pulitzer? A. I saw Mr. Fletcher when I called upon him, when I made my first call there.

Q. I thought you said you saw him a day or two before you saw Mr. Pulitzer? A. Well, I did.

Q. Where? A. In the World Building, in the Pulitzer Building.

Q. And that was about what day in December? A. Why, it was a couple of days before I saw Mr. Pulitzer.

Q. Well, that would be about the 17th or 18th of December? A. The letter will show. I will hand it to you, Mr. Stanchfield.

Q. Well, about that? A. About that time?

Q. Yes. A. I should say so.

Q. Now, before receiving this letter from Mr. Fletcher, hadn't you had any communication, either by letter or otherwise, with any representative of the New York World? A. Prior to seeing Mr. Fletcher?

Q. Yes. A. No, sir.

Q. None at all? A. I said a World reporter was looking for me in the campaign that Justice Cohalan was running for.

Q. In what campaign? A. In the 1911 campaign.

Q. Well, that is two years — a year or so ago? A. Yes. Well, you asked me if anybody prior.

Q. Yes. I am speaking now of the fall of 1912, last December, before you received this letter from Mr. Fletcher, didn't you have any correspondence or conferences with any reporter or representative of the New York World? A. No, sir.

Q. Now, you say that some reporter for the World the year before was looking for you? A. Yes, thirteen months before.

Q. Who was it? A. Why, I have a telegram he sent me, and the telegram was signed Charles Man.

Q. Charles what? A. Charles M-a-n.

Q. Did you answer it in any way? A. No, I kept out of his way.

Q. You didn't see him, in other words? A. I didn't see him.

Q. Now, when you called upon Mr. Fletcher, what hour was it of the day, forenoon or afternoon? A. I think it was around noontime, Mr. Stanchfield.

Q. Had you expected to hear from the New York World when you got his letter? A. When I got his letter?

Q. Yes. A. Why, I called I didn't know what to expect.

Q. Before you heard from Fletcher were you expecting to hear from the New York World? A. Before I saw —

Q. Before you got Fletcher's letter, is not the inquiry clear, were you expecting to hear from the New York World? A. Before I got Fletcher's letter?

Q. Yes, requesting you to call. A. Well, I expected to hear from him subsequent to my call — to my own call — to the first call I made there purely on my own volition.

Q. When did you go of your own volition? A. A couple of days prior to the receipt of Mr. Fletcher's letter.

Q. Precisely. So that of your own volition you called on the New York World about the middle of December, the 14th or 15th? A. Well, around that, about that time.

Q. Well, taking your recollection, about that time. Whom did you see when you got there? A. I saw Mr. Fletcher.

Q. Saw him in the first instance? A. I saw Mr. Fletcher.

Q. Did you ask for Mr. Fletcher? A. I didn't know there was such a man in the building.

Q. For whom did you ask? A. For whom did I ask?

Q. For whom did you ask? A. I asked if Mr. Pulitzer was around.

Q. For Mr. Pulitzer? A. Yes, sir.

Q. You never had met him before? A. Never.

Q. You knew he was President of the Press Publishing Company? A. Yes, I knew that on account of reading the World.

Q. Now, your feelings at that time towards Judge Cohalan were very bitter, weren't they? A. I was incensed.

Q. You were incensed,— well, angry at him, is that too strong a word? A. Well, angry in the sense of not knowing the exact definition, maybe three or four —

Q. Well, take incensed? A. I was mad at him.

Q. That is all the better.

Assemblyman Levy.— Sore.

Q. That is a much more emphatic term than either your word or mine — you were mad. Did that madness extend to the whole Cohalan family? A. You have brought in the whole Cohalan family.

Q. Did it extend to the whole Cohalan family? A. It didn't.

Q. When you went of your own volition to the New York World did you think you had somewhere the means of making some money coupled up with your being mad? Answer me. A. My idea —

Q. Answer me. Did you think so? A. I started to answer you.

Q. Did you think you had the means of making some money by seeing the New York World? That is a perfectly plain question.

A. I was looking for employment, if employment means money, yes.

Q. Employment usually means money, doesn't it — unless you are a lawyer? A. I am only a steam fitter.

Q. Well, I say with you employment means money, doesn't it? A. Employment with me means money.

Q. Means money, and you went to the World looking for employment? A. I did.

Q. Therefore you went to the World looking for money? A. I went to the World looking for a service contract.

Q. Of your own volition?

Mr. Gibbs.—What was that last answer?

Mr. Stanchfield.— "Looking for a service contract."

The Witness.— In other words, Mr. Stanchfield, I was willing to give —

Q. Never mind that, Mr. Connolly, when I want you to answer a question I will ask it. When you say you were there looking for a service contract, do you mean the contract I put in evidence? A. I could not tell what kind of a contract I was going to get at that time.

Q. You did not go there looking for steam fitting? A. If they would have financed me I would have looked for steam fitting.

Q. That was not what you went there looking for? A. (No answer).

Q. That is not what you went there looking for, is it? A. I went there looking for revenge.

Q. That is right. You read the newspapers, don't you? A. Do I read the newspapers?

Q. Yes. A. Yes, sir.

Q. And did you read the New York World and other New York papers in December? A. I read all of them except the Telegraph.

Q. Now you knew John P. Cohalan, a brother of Judge Cohalan, didn't you? A. I knew John very well.

Q. And during the past year John P. Cohalan has been one of the Surrogates of New York county. You knew that? A. Oh, I certainly did.

Q. Well, please speak about a thing of that kind. When you went to the World looking for revenge and money, had you read in the newspapers of the decision of Surrogate Cohalan that required

the Pulitzer Estate to pay large sums of money for taxes into the State treasury in this State? A. (No answer).

Q. That did not escape you? A. That did not escape me. I saw that.

Q. That did not escape you? A. No, I read that.

Q. Was that when you were looking for revenge? A. And I read about other estates.

Q. Yes, but we are talking now about the Pulitzer estate, and when you want to make any statement or answer any questions other than what I put to you, there are several distinguished counsel here that will be very glad to ask you. So that when you went looking for revenge to the World, the fact of that decision of the Surrogate had not escaped you, had it. That is your testimony. A. (No answer).

Q. Do you want to take it back? A. Take what back?

Q. You said that fact did not escape you. A. I do not know when it happened.

Q. You said that fact had not escaped you. A. I have read it.

Q. You have read it? A. I have read it, Mr. Stanchfield.

Q. And you felt, with your story, full of venom and looking for revenge — A. Not against John P. Cohalan.

Q. But against Daniel F. Cohalan, that that was the psychological time for you to strike? A. The psychological time this was — I didn't have a dollar and I had a family to support and I had been strung along over two years on false promises.

Q. Mr. Cohalan has a family to support too, hasn't he? A. He has a family to support and he is supporting them very, very well, I believe.

Q. You are supporting yours pretty well now, aren't you? A. I am trying to and I have always tried to support my family.

Q. And trying to support them at the price of his honor and manhood? A. You can put it whatever way you please.

Q. Isn't that a fair way to put it? A. Oh, there are — I won't argue with you.

Q. You notice this contract — I will read it to you, that the Press Publishing Company shall be the sole judge of whether the facts developed by the investigation justify publication. Who drew that contract? A. Who drew it?

Q. Yes. A. I am trying to think just who was —

The Chairman.—We cannot hear you.

The Witness.—Who was the father of it.

Q. You didn't, did you? A. No, but I suggested certain things in it.

Q. Did you suggest that the Press Publishing Company should be the sole judge of the value of your story, and your corroboration, or did they suggest it? A. Why, I guess they put that in.

Q. Yes, I think very likely. You say there were certain portions of it you put in. Don't you recollect now, in answer to my question, who drew this agreement? A. My lawyer corrected it.

Q. Who was that? A. Mr. Warren.

Q. Did you tell Mr. Warren that you intended to publish in the New York World all this story at the time when you retained him to get back this note? A. At the time I retained him to get back the note?

Q. Yes. A. I told him briefly about it I believe.

Q. You told him briefly about it? A. Yes.

Q. When you retained him to get back the note it was along in May, wasn't it, of this year? A. Yes, sir.

Q. Many months after that contract was made? A. Yes.

Q. At about the time of its signature, do you mean to tell us you took this contract to Warren? A. That particular contract?

Q. The original — A. Warren never saw that contract.

Q. Very well. A. They had a shorter form which I did not like and I wanted certain things incorporated in it and Warren wrote them in for me and then Mr. White and I settled upon the — we were the final arbiters of it.

Q. Then there was no other lawyer called into it? A. No.

Q. When is this salary of $3,000 a year payable to you? A. When is it payable?

Q. Yes. A. Why, it is payable weekly.

Q. Payable what? A. Payable weekly.

Q. Where is there any provision in here that it is payable weekly? A. There is not any provision, Mr. Stanchfield.

Q. There is no provision that is detailed, is there? A. I get paid weekly.

Q. There is no provision in your contract that is payable weekly? A. I cannot see it now.

Q. What the contract says first that they will pay you at the rate of $3,000 a year for a total period of three years. That is right, isn't it? A. That is correct.

Q. Did you tell Mr. Fletcher on the occasion when you first went there on your errand— A. Why, I told him I wanted to see Mr. Pulitzer.

Q. You didn't see Mr. Pulitzer that day, did you? A. No, sir.

Q. Did you tell Mr. Fletcher what you wanted to see him about? A. Oh, I told him I had a matter that I thought was important and Mr. Fletcher wanted to know the details, and he said, "They all say that." I said I did not want to waste my time. I have got something that I want to see the — I want to see the head of the concern.

Q. Yes, go ahead. A. That is about all.

Q. That is about all, is it? A. That is about all; and I left my name and address.

Q. Then you received a letter from him? A. I received a letter from Mr. Pulitzer.

Q. I say you received a letter from Mr. Pulitzer. You went down in a day or two to see Mr. Pulitzer? A. Yes, sir.

Q. Tell me what that conversation was if you had any with him? A. With Mr. Pulitzer?

Q. Yes. A. Well, you want the substance of it, or do you want to — I did not have.

Q. You can tell the conversation? A. I did not have a stenographer with me.

Q. But your memory is very good at times about conversations. Just give us the conversation. A. Why, I told him that I had a matter that I thought would involve some prominent politicians and I spoke to him about the policy of the paper, being nonpartisan, and that I would like to go over the matters with him in confidence. He sent for Mr. Lincoln I believe and he was not — he had not arrived. Then he called for Mr. Spurgeon and Mr. Spurgeon came upstairs and was introduced to me. We had a general conversation.

Q. Well, relate it, it is very interesting? A. Well, I didn't give him very much information.

Q. Was that because your contract had not been signed, is that the reason? A. It was my first experience in that —

Q. Atmosphere? A. In that atmosphere? Oh, I have been in other newspaper offices.

Q. Just give me this conversation, that is what I am interested in? A. Well, I didn't give him a great deal of information; I said I had matters that might interest them.

Q. Well, that is not the interview? A. Well, now, that is about all that was said, because I was rather chary, if I might say so.

Q. Yes. A. There were two men there, and it was my first experience in that line, and there was a further meeting suggested.

Q. When was the further meeting? A. Why, it was made for December 23rd, up in the Harvard Club.

Q. Up where? A. At the Harvard Club.

Q. Who was present at that meeting? A. Mr. Spurgeon, Mr. Pulitzer, Mr. Patrick J. McNulty and myself.

Q. Four of you? A. Four of us.

Q. What took place at that conference in the way of conversation, as far as you can remember? A. Oh, we had a long general conversation about the conditions in New York city, and they seemed to be very much interested.

Q. Is that all that you can recall of that conference, set for a special hour at a special place, with these four men present? A. The conference lasted about an hour and twenty minutes, and there was a great deal said, Mr. Stanchfield.

Q. Didn't you give there at that time — didn't you go over at that time the substance of this story about Judge Cohalan? A. I don't believe Judge Cohalan's name was mentioned.

Q. Not at all? Was there a further meeting? A. I made them understand at the end of the conference that I was the principal, and that I could tell a story.

Q. And then what? A. They got to terms, and I told them — he asked me how much money I wanted. I told them I didn't want money, I was looking for a job, that I would prefer a service contract; in other words, that I refused money, I was not — I didn't want to sell the story in that manner. And then Mr. Pulitzer turned around to Mr. McNulty and asked him if he wanted anything, and I recall his reply distinctly: He said, "The New York World has not got enough money."

Q. That is McNulty? A. That was McNulty.

Q. I am quite interested in what you said? A. Well, I was looking for a job, and as I termed it, a service contract.

Q. Yes. A. And he wound up pleasantly enough, there was nothing — no — we hadn't come to terms.

Q. Go ahead, Mr. Connolly. A. And a further meeting was arranged after Christmas.

Q. Hadn't you come to any terms as to the amount you would be paid under this service contract? A. No, sir.

Q. You are quite emphatic here that you were not selling this

story, I notice? A. I was looking for a position to support my wife and children; I didn't have a dollar, and I was willing to work for somebody.

Q. And you were willing to sell this story to whoever would buy it, weren't you? A. Well, I didn't go around shopping and peddling at all when I made up my mind to call upon—

Q. You were willing to sell the story to whoever would buy it, weren't you? A. I was looking for service —

Q. Will you answer that question, under your oath, were not you willing to sell this story to whoever would buy it? A. If they would give me employment.

Q. Now, do you know L. J. O'Reilly, of the Journal or New York American? A. I know him.

Q. You know him pretty well, don't you? A. Well, I have known him for a couple of years.

Q. Is that all you have known him, haven't you known him ever since Hearst was a candidate for Governor? A. I didn't meet him in that campaign.

Q. How long will you say you have known him now? A. Well, I met L. J. O'Reilly in 1909.

Q. In 1909? A. Four years ago.

Q. Did you see him in the fall of 1911, when Judge Cohalan was a candidate for Supreme Court Judge? A. I did.

Q. Did you have any talk with him about the general facts relating to Judge Cohalan — A. No, I had —

Q. Wait a moment — relating to Judge Cohalan, which you testified to here? A. It is my fault, Mr. Stanchfield, I beg your pardon.

Q. Did you have any talk with L. J. O'Reilly in the fall of 1911, before election, with reference to the general facts you have testified to here, about Judge Cohalan? A. L. J. O'Reilly had a talk with me; I did not seek it.

Q. Then he had a talk with you? A. Yes, sir.

Q. In the conversation that you had with L. J. O'Reilly, did he take notes of it? A. You mean in writing?

Q. Jot down memoranda? A. No, sir, not to my knowledge.

Q. You are sure of it, not to your knowledge? A. I didn't see him do it.

Q. Did he ask you about this Cohalan story? A. He mentioned it.

Q. Where did that interview take place? A. In Hahn's cafe, Fifth avenue just north of 42nd street.

Q. What time of day? A. Oh, it was in the afternoon, around three or four o'clock.

Q. You had quite a long interview, didn't you? A. I would not call it very long.

Q. Was it the Saturday before election? A. No, it was — I was a very busy man the Saturday before election, I had no time for that.

Q. When was it, according to your recollection, with reference to election? A. It was a week or ten days before.

Q. A week or ten days before. Now, when you got through your talk with him, did he say in substance that he was going to publish this story? A. Why, he wanted a confirmation of it.

Q. Will you answer my question? A. I am answering it, Mr. Stanchfield. He wanted to confirm —

Q. Answer my question. Did he say he was going to publish it? A. He said he wanted to publish it.

Q. Wanted to publish it. Did you have another conference with him? A. Did I have another conference with him?

Q. Yes. A. Yes.

Q. At the Hotel Manhattan? A. No, sir.

Q. Where? A. At the Hotel Savoy.

Q. At the Hotel what? A. Savoy.

Q. 59th street? A. Yes.

Q. And Fifth avenue? A. Yes, and Fifth avenue.

Q. Did you go over this same story with him? A. I did not go over it with him.

Q. Did you answer questions from him? A. I told him I would not have anything to do with it.

Q. Which was the last conversation, at the Savoy or at Hahn's? A. The last conversation I had with — that is prior to election day?

Q. Yes, prior to election? A. It was at the Hotel Savoy.

Q. What day was that before election? A. Why, I think it was Thursday.

Q. Thursday. Didn't he have a typewritten statement of this story with him at the time? A. He did not; that is, he didn't show it to me, that he did.

Q. Did he tell you at that time that he was intending to publish the story ? A. Why, there was — did he intend?

Q. That he wanted to publish it. A. He wanted to publish it, and I told him if he published it I would consider it an

unfriendly act and that I would not confirm it. I wouldn't have anything to do with it.

Q. That isn't all you said, is it? A. Oh, I said a good deal.

Q. Yes. Well, didn't you say that you wanted $10,000 for it? A. No, sir.

Q. And didn't you tell him that if he did publish it and that if you didn't get $10,000 for it that you would repudiate every word in the interview? A. I never — there was another party present, Mr. Stanchfield, at that interview.

Q. Did you use just this expression to Mr. O'Reilly: That if you didn't get the $10,000 you would swear upon a stack of Bibles that there wasn't a word of truth in it? A. No, that wouldn't be me. I wouldn't make that remark.

Q. Well, you did tell him in substance that if he published it you would repudiate it, didn't you? A. I told him that it would be an unfriendly act on his part.

Q. Didn't you tell him that you would repudiate it? A. I told him I wouldn't confirm it; if that is a repudiation, yes.

Q. Well, now, why did you tell him that you wouldn't confirm it, if you were after, then, revenge? A. I wasn't after revenge then.

Q. You were not then? A. No, no.

Q. Why did you tell him — A. (Interrupting.) I was very friendly.

Q. Why did you tell him that you would not confirm it? A. Why did I tell him?

Q. Yes. A. Why, I had sense enough to know that if I did that on an important election that they could get out an election canard and that I could come out and repudiate it; I had sense enough for that, Mr. Stanchfield.

Q. And you have told me now all the conversation that took place? A. Well, there was a great deal said.

Q. I mean about money? A. Oh, there was no talk about money at all.

Q. Nothing said upon the subject? A. They wanted me to mention a sum and I wouln't mention any sum; I said I didn't want anything.

Q. Did you say it was worth $10,000 to you? A. I didn't say anything of the kind.

Q. He wanted you to mention a sum, you say, that you would take for it? A. He wanted to know what I wanted or — I told him I didn't want anything, I didn't want anything at all.

Q. You knew he was a reporter for the Journal, for the American? A. Oh, I knew he was Mr. Hearst's right-hand man; I knew he was his private secretary.

Q. Well, now, when he asked you what you wanted in money, what did you say to him? A. I told him I didn't want money.

Q. Nothing said about amounts? A. Why, no.

Q. And he didn't offer any amounts? A. He didn't make — he wanted me to say something what I wanted or something to that effect.

Q. But didn't he offer you amounts? A. He didn't offer me anything because we didn't get down to the offer; he saw I was a very determined man not to —

Q. (Interrupting.) You told me you were not looking for revenge at that time? A. No, I was trying to elect Justice Cohalan.

Q. Why did you tell O'Reilly that story for? A. What did I tell O'Reilly? O'Reilly heard the story from other people, Mr. Stanchfield.

Q. Why did you tell it to him? A. He told me that he did.

Q. Why did you tell it to him? A. Why did I tell it to him?

Q. Yes. A. I wouldn't tell him anything; I wouldn't confirm it.

Q. Didn't you say that you had — A. (Interrupting.) He said that other people had mentioned my name and he didn't know that I was a principal.

Q. You told me a little while ago that you wouldn't confirm it for him at that time? A. I spoke about a story in relation to Justice Cohalan.

Q. Then you told me here that he asked you questions at Hahn's all about this matter? A. Why, he brought it up, that he mentioned certain people that told him it, told it to him in the Manhattan hotel, as I understand it.

Q. Yes. And you talked with him about this story for an hour or more? A. At Hahn's?

Q. Yes. A. No.

Q. Well, how long will you put it? A. Oh, I will put it 45 minutes.

Q. Very well. A. He wanted to get over to headquarters.

Q. Now, in that 45 minutes did you tell him the substance of what you testified to here? A. No, sir; I wouldn't tell him anything.

Q. But what did you talk about for 45 minutes? A. Oh, he spoke about the campaign and he mentioned Mr. Hearst's name,

and he mentioned the people that had told him the story, and he wanted to get even with Gallagher, Paine and Gilleran.

Q. You noticed on the face of that contract that the New York World — that the amounts you are to be paid, including the $1,000 down, is $10,000, didn't you? A. Yes.

Q. Yes. And with that thought again in your mind you still say that O'Reilly and you did not discuss the payment to you of the sum of $10,000 for this story? A. Why, no; if Mr. O'Reilly offered me $50,000 at that time he could not have the story confirmed from my lips, because I wanted to elect Justice Cohalan.

Q. Well, we will see about that later. Was there any one — was there any third party present at either of these interviews that you had with Mr. O'Reilly? A. At the —

Q. (Interrupting.) At Hahn's or at the Savoy? A. At the first interview there was nobody. At the second interview Mr. Patrick J. McNulty.

Q. And he was with you on this second occasion? A. Yes, sir.

Q. And that was at the Savoy? A. Yes, sir.

Q. Now, had you offered this story or talked with representatives of any other newspapers than the American? A. Had I?

Q. Yes; have you at any time? A. No.

Q. Aside from the American and the World? A. Well, the American had talked with me.

Q. Well, had talked with you? Have any other newspaper reporters other than you have mentioned talked with you about this story? A. No; Mr. O'Reilly of the American, and the World that I am testifying about.

Q. Those are the only two? Now, in your — any of your interviews with the representatives of the World, was it talked over in those interviews as to what proceedings were to be had in which you were to figure where you were to investigate and diligently and faithfully furnish corroboration? A. Will you repeat that to me again, Mr. Stenographer?

Q. In any of the interviews — I will put it again so that you will understand it — in any of the interviews that you had with reference to this matter with representatives of the New York World, was there a discussion as to what proceedings would be had in which there would be an investigation, and also to furnish corroboration? A. I — that is a long, involved sentence, and I don't quite —

Q. (Interrupting.) Do you recollect the phrase in the contract that you were to furnish corroboration? A. Yes, sir.

Q. You understood that you mean what I do, that it was corroboration of your story, didn't you? A. Yes, sir.

Q. Well, now, wasn't it talked about how you were to testify and furnish corroboration? A. How I was to testify?

Q. Yes, and where? A. No; it was not.

Q. No conversation upon that subject at all? A. No, sir.

Q. Now, since the signing of this contract, January 3, 1913, have you been devoting your entire time, all of it, exclusively to the collection of testimony in this matter and trying to corroborate your own story? A. To a very great extent, yes. I consider that I was very assiduous on the subject.

Q. You haven't had any other occupation, have you? A. No.

Q. And you have had numerous interviews, have you not, with representatives of the New York World upon the subject? A. Yes.

Q. There was published, in the month of May, in the columns of the World, an article many columns long, purporting to be signed by you? A. Yes.

Q. Do you recollect it? A. I do.

Q. Did you prepare that story? A. Parts of it.

Q. Who aided you? A. Mr. Robert O. Scallon.

Q. Connected with the World? A. He is a reporter on the New York World.

Q. And you signed this article? A. I signed articles.

Q. And were thoroughly conversant with the facts contained in it? A. Oh, yes.

Q. Now, how many statements were prepared, do you know, have you any idea? A. Statements of what?

Q. By you in connection with Scallon and the facts, generally speaking, that you have testified to here to-day? A. Why, there was a financial report and there was a general report; oh, seven or eight chapters, it was in a book.

Q. Those are in your possession? A. They are in the possession of the Bar Association.

Q. You took them to the Bar Association? A. I either took them or they were taken for me.

Q. Well, Mr. Scallon was up there with you also at the Bar Association, wasn't he? A. I met him up there once or twice.

Q. And Mr. Cruikshank, your lawyer, was up there? A. Yes, sir; my ex-lawyer.

Q. Well, your ex-lawyer. And you were present in the room when he was there? A. I was.

Q. Yes; and you heard him ask questions, did you not? A. Yes.

Q. A good many of them? A. A great many of them.

Q. Did you hear Mr. Cruikshank ask whether or no he had destroyed these checks, check stubs, and cut out the leaves with reference to which you have testified to in the books of the Victor Heating Company? A. I heard him testify he would destroy anything he could get his hands on at that time.

Q. Did you hear him ask that question? A. Did I hear him? Yes; I heard him.

Q. Did you hear him say to the Bar Association representative that he did not destroy what you swore here that he did destroy? A. Well, he—

Q. (Interrupting.) Now, answer my question. A. He hemmed and hawed about it.

Q. Answer my question. A. I will try to.

Q. What is that? A. I say I will try to.

Q. Didn't he deny in your presence to the representative of the Bar Association that he had destroyed the stubs or leaves of books, and the papers that you say he destroyed that evening after your dinner at Bretton Hall? A. I believe he did deny it.

Q. This work, Mr. Connolly, that you got from the city of New York, commenced to come in the form of orders, as I recall it, along in the year 1904? A. Yes, sir.

Q. You continued to get work from the city after the last payments that you made to Cohalan in September and November, 1906, did you not? A. Yes.

Q. That is true, isn't it—

The Chairman.—We will take a recess for ten minutes.

Whereupon, at 3:25, P. M., a recess was taken until 3:35 P. M.

AFTER RECESS.

Senator Murtaugh.— The Committee will come to order. Conversation must cease during the examination, because we cannot hear up here.

Q. At the moment of the recess, Mr. Connolly, I was asking you whether you did not continue to do work for the city after the

last two payments to Judge Cohalan in the fall of 1906? A. Yes, I done work.

Q. You did work in 1907, 1908 and 1909? A. I did work in 1907.

Q. You testified yesterday that you did it in 1908 and 1909? A. I am not quite clear about 1909.

Q. You are about 1908? A. Yes, I did work in 1908, but not for the Department of Water Supply. The work was taken away from me in July or August, I think, 1907.

Q. Did you do it for the Public Buildings Department? A. I did some work, yes, sir.

Q. You did not pay Judge Cohalan any moneys for work subsequent to 1906? A. No, sir.

Q. You took the position, did you not, that he was not instrumental in any way in obtaining you work subsequent to 1906? A. Well, he had nothing to do with the Water Supply work.

Q. But what? A. He had absolutely nothing to do with the Water Supply work.

Q. You took the position that none of the work came through him in any way? A. I would not take that position.

Q. Well, you didn't pay him any, then, anyhow? A. I didn't pay him anything after the last $500 in 1906.

Q. The last $500 was in November, 1906, that was work done in 1905, wasn't it? A. Yes, sir.

Q. Who went into the head of the Department of Water Supply, Gas & Electricity at that time? A. What time?

Q. After 1905? A. William B. Ellison.

Q. Who had been the prior head of it? A. John T. Oakley.

Q. Mr. Oakley died? A. Mr. Oakley died recently.

Q. Irrespective of his death, his successor was William B. Ellison? A. Yes, sir.

Q. You knew Hamilton Fish? A. Yes, I knew him.

Q. He was a Putnam county man, was he not? A. Yes, you could call him that.

Q. Well, he represented Putnam county, didn't he? A. He represented Putnam county in the Legislature, and he was Speaker and held many offices.

Q. Did you ask him to introduce you to Mr. Ellison? A. I think he told me that he knew Mr. Ellison very well.

Q. I ask you if you asked Mr. Fish to introduce you to Mr. Ellison? A. Well, I think I must have.

Q. Yes. A. I must have asked him for that letter eventually, he suggested it originally, though.

Q. And he gave you a letter of introduction or indorsement, as the case may be, to Mr. Ellison, did he not? A. Yes, sir.

Q. Which you were to present for the purpose of getting work from the Department? A. Yes, sir.

Q. Now you continued, then, while Mr. Ellison was in that Department, to do work? A. Yes, sir, all through.

Q. Work of the same general character that you had been doing before? A. Yes, sir.

Q. The same, I mean, as you had been doing in 1904 and 1905? A. Yes, sir.

Q. Now, in making of these payments to Mr. Cohalan, you have been asked by Judge Kellogg, whether or not he ever rendered you a bill, do you recollect that? A. Whether he ever rendered me a bill?

Q. Yes. A. Yes, I recall that.

Q. And you did produce here a bill for $250? A. Yes, sir.

Q. With the check with which you paid it? A. Yes, sir.

Q. Now you specifically requested Judge Cohalan to send you that bill, didn't you? You want me to refresh your recollection? I will read it? A. What?

Q. You specifically requested him to send you that bill, didn't you? A. I am trying to search my memory in regard to it.

Q. Do you want me to refresh it? A. I will take my own now, while I am thinking on the subject. Why, I think Mr. Stanchfield, that the last —

Q. Just now, answer that question, please. That calls for an answer, yes or no. I ask you if you did not specifically request it? A. I told him I had never received —

Q. I ask you if you did not specifically request him to send you that bill for $250, for services in the O'Hanlon matter? A. I did not mention the amount of money.

Q. Didn't you specifically ask him to send you that bill? A. Yes, I did.

Q. All right. These other payments that you made, aggregate $3,900 and some odd, or $3,940.55, to be exact, were all paid you testify in cash? A. Yes, sir.

Q. And if your story is to be accepted, each check was made to the order of cash, wasn't it? A. Yes, sir.

Q. Isn't it a fact that from every check that you drew to

cash, when you gave Mr. Cohalan certain sums of money in bills, you kept something for yourself? A. Not in every case.

Q. Can you recollect now in what case you did? A. I think in all but two cases, Mr. Stanchfield?

Q. In other words, you drew the check to cash for a larger amount than you paid to Cohalan? A. All except in one instance.

Q. In every instance except one. And you kept for your own uses and purposes the excess over what you paid him? A. I did, except in another instance, where a payroll was attached. It was on a Saturday.

Q. With that exception, you kept for your own uses, the excess? A. I believe so, with the two exceptions that you have just named.

Q. Are you able to state now from memory what that excess was, or what it amounted to? A. The first one was $525.

Q. And out of that you kept $25? A. Yes.

Q. Go ahead? A. The next — I don't recall the $200 one at the moment, whether it was exactly $200. I know the $185 was $190.

Q. The $200 was $225, wasn't it? A. Was what?

Q. Was $225, wasn't it? A. It may have been.

Q. Would your ledger here refresh your recollection? A. I think it might, on that date.

Q. I call your attention to an entry on page 37 of your ledger, under December 7th, of $225, and ask you if that was not the amount of that check? A. If it appears with the stub.

Q. The stub is destroyed.

Mr. Stanchfield.— Where is that stub?

Mr. Kresel.— It is lost.

Mr. Stanchfield.— That was the one that was not produced.

The Witness.— There is a transcript of the Produce Exchange Bank here somewhere.

Mr. Kresel.— That is not in evidence. Let us not go into that.

Q. The $225. From that you kept $25? A. I believe so.

Q. Do you recollect how much you kept from other payments you made? A. The $185 check was $190.

Q. Out of that you kept $5, didn't you? A. I believe so.

Q. There was another one for $380? A. Yes, that was set aside for a purpose.

Q. Out of that you kept $10, didn't you? A. I think it was $5.

Q. Either $5 or $10, one or the other? A. It was either $5 or $10.

Q. These moneys that you checked out to cash were moneys deposited in the bank to the credit of the Victor Heating Company, weren't they? A. Yes, sir.

Q. And you were one of its officers, and out of this cash you paid Cohalan you were pocketing these different sums every time you paid them? A. Well, pocketing —

Q. Yes, pocketing them, taking them for your own use? A. I was charging them to certain things.

Q. Charging them to commission? A. Well, if the books show I was.

Q. So you were charging them to commissions? A. You say so; I don't know, unless you show me the books.

Q. Here is your ledger. You recognize that, don't you? A. This is salary.

Q. That is the wrong page. Just wait a moment, Mr. Connolly? A. Yes, sir.

Q. There is that account of commissions, isn't it? A. That is the commission account; yes, sir.

Q. And in here is an item which includes those of $1,183? A. Yes, expenses.

Q. Now, charged to commissions. Will you please tell this committee how you earned these commissions from this corporation of which you were president and stockholder, as a salaried employee? A. Will I tell them?

Q. How you were entitled to put in your pocket commissions out of the check drawn to cash, the great bulk of which you paid to Cohalan. These items of $25, $10 and $5, how you were entitled to them as commissions? A. I might have to pay them out to somebody.

Q. Did you? A. I don't recall.

Q. You say you might have to pay them out. To whom did you pay out a dollar of those moneys for commissions? A. I would have to go over the book carefully.

Q. What book is there that would refresh your recollection and would enable you to state to whom you paid any portion of

those moneys you kept concededly out of those checks; what book would refresh your recollection that is in existence? A. The check stub books will be an aid. I might say —

Q. Now, Mr.— A. If you won't —

Q. I am asking you what book will aid you? A. The check stub book.

Q. The check stub book would show, for instance, $380? A. Yes.

Q. And you say that was drawn to cash, and you gave to Cohalan either $370 or $375? A. Yes.

Q. And you kept either $5 or $10. How will your stub book show to whom you paid that $5 or $10 as commissions? A. It may have a party's name on it. I don't know.

Q. The check was to no party. You put it in your pocket, you told me; you kept it? A. I may have taken it — pocketed it, the usual words, and I may have given it to somebody. There were plenty of people with their hands out, Mr. Stanchfield.

Q. Is there anybody you can name to whom you ever paid a dollar of that money? A. I could; I don't want to name them particularly.

Q. You mean of that particular money? A. (No answer.)

Q. Answer me. You say you can name people to whom you paid that particular money? A. No, I won't say that.

Q. Then, as a matter of fact, you kept the money yourself, didn't you? A. If you put it that way.

Q. It takes us a long while to get it? A. I was the owner of the business.

Q. Where did O'Hanlon and these other stockholders come in? A. Well, O'Hanlon did not figure. He held me up for $1,500 to a bankrupt concern.

Q. No other stockholder figures. When you say you were the owner of the business, you always treated it as a one-man concern? A. I did, after I got hold of the stock.

Q. It got into rough waters eventually under your administration? (No answer.)

Q. Now, Mr. Connolly, who did you get to assist you in compiling the figures of your business for the use of the New York World in this investigation? A. Who did I get?

Q. Yes. A. I assisted myself, and Mr. Wiley assisted, and Mr. Scallon assisted.

Q. Yes. Now, you know perfectly well, do you not, that if

you eliminate this campaign contribution for the thousand dollars and this discount item of $209.19 from your total, that you did not pay Cohalan 55 per cent. of the business he obtained for you? A. Well, I don't think I did under that construction.

Q. Yes. I say if you eliminate those, you did not pay him 55 per cent., did you? A. If I eliminate those two items?

Q. Yes. A. No, I don't think it will show 55 per cent.

Q. Now, you testified here that before you paid that campaign contribution, that Mr. Prendergast suggested, by leaving his card, of a thousand dollars? A. He did not leave any part of a thousand dollars.

Q. He left his card at your office and you said when you returned you found his card? A. Yes.

Q. Very well. You made a campaign contribution of a thousand dollars? A. I did.

Q. You testified here that you brought it to the attention of Cohalan before you paid it and that Cohalan told you to use your own judgment about that? A. Practically that.

Q. Well, practically that. What language did he use? I am sceptical about it? A. You are sceptical about it?

Q. Yes, because you have made — A. (Interrupting). I tried to be very clear and lucid about it, Mr. Stanchfield. I told the instance where he was holding a session in his own office and that he was called out of the room.

Q. What was the language that he used? A. Why, he told me to use my own judgment and do the best I could.

Q. That is the language? A. Well, substantially, yes.

Q. Now, didn't you make this statement and I will read the exact language in the article you signed and gave to the New York World, published in May: "Meanwhile I told Mr. Cohalan about making the $1,000 contribution and he flew into a rage." You signed that statement, didn't you? A. It has my name on it?

Q. Yes. A. That was subsequent to the contribution.

Q. This is the statement that I am reading from? A. I know.

Q. That you had published in the New York World signed by you, May 26, 1913, and I ask you if in that statement you did not use this language: "Meanwhile I told Mr. Cohalan about making the one thousand dollar contribution and he flew into a rage." Did you state that? A. Subsequent after I made it.

Q. Why, of course, that was after you made it; this is in the World article of last May. A. Yes, I understand you perfectly.

Q. You told me that you signed that article and that was prepared by you? A. I am not denying it. I say it was after I gave the $1,000.

Q. I appreciate that but I want to know if you said that? A. I must have said it.

Q. Now I will continue: "You should have known better than to do that he said, if you had come to me I would have told you not to do it." Did you state that? A. Did I state that?

Q. Right in so many words? A. Is not there more of it, cannot you read on?

Q. I will read on, but you answer my question, did you state that? A. Read it again now, I don't know whether he is talking or I am talking in the paragraphs.

Q. I will read them both then: "Meanwhile I told Mr. Cohalan about making the $1,000 contribution and he flew into a rage. You," this is addressed to you, "you should have known better than to do that, he said, if you had come to me I would have told you not to give it." Now did you say that? A. Well, if you will let me look at what follows it, Mr. Stanchfield.

Q. I will read the whole of it, but I want to know first if you said that? A. Well, if it is there it is supposed to be my language.

Q. And then do you recall: "I did come to you when they asked me for it and you would not advise me one way or the other?" A. Yes.

Q. And then did you state this: "I did not suppose you would be such a fool as to give up."

The Chairman.— Who said that?

Q. Cohalan to you? A. Words to that effect.

Q. That is what you stated? A. Words to that effect.

Q. I will read further: And did you state to the Bar Association, and I am reading from page 43: "I don't know what this means. Why should I be called upon for a contribution?" This is your statement, "I have nothing to contribute with these bills tied up." Then speaking of Cohalan "He would give me no advice at all." Is that substantially what you stated there? A. It must be if it is the stenographer's minutes.

Q. Both in that statement and the New York World and in the statement before the Bar Association you say that Cohalan would give you no advice upon the subject at all, or in substance, is not that so? A. Well, when he told me to use my own judgment I considered that so.

Q. Where did you ever state until you swore to it here that he told you to use your own judgment? A. Where?

Q. Where? A. I stated it right here.

Q. Neither before the Bar Association nor in your signed statement to the New York World did you say that he told you to use your own judgment, did you? A. Apparently not if it is not in there.

Q. Therefore, when you testified here that he said to you to use your own judgment, that is an afterthought? A. I would not consider it an afterthought. I am trying —

Q. At least you never have alluded to it before? A. Apparently not in those statements.

Q. Now you charged against Cohalan's share the whole of this $1,000, didn't you? A. I did.

Q. Why didn't you charge your corporation with 45 and Cohalan with 55 per cent. of it if you had that arrangement with him? A. He was looking after the political influence of it and I was looking after the mechanical work of it and so forth and so on, and I felt he hadn't done his part.

Q. You didn't give him that as the reason, did you? A. Well, I put it in the statement.

Q. You didn't give him that as the reason? A. That is how I felt about it.

Q. Yes; but I say you never gave that to Cohalan as the reason? A. I think we had a row about it.

Q. A row? A. Yes, a wordy war.

Q. I will get at the wordy war later, did you have any wordy war on that subject? A. I think we did.

Q. You haven't testified to any here, have you? A. No, I have not been asked, I don't think.

Q. Did you tell him also about this discount item of $209.19? A. I must have.

Q. Well, have you any recollection of it? A. Why yes, I told him about it, I told him something about if the bank president hadn't carried it and my largest creditor, why there would be nothing in it for anybody, in such a way somewheres or somehow.

Q. Well, when you first got in touch with the World, you told them or its representatives that you had, in the progress of your story, this arrangement to pay Cohalan 55 per cent., didn't you, of the net profits of the business he got? A. Oh, yes, I told him that.

Q. Did you fix 55 per cent.? A. Did I fix 55 per cent.?

Q. Yes. Did you say — fix in terms 55 per cent.? A. At what particular time?

Q. In your interviews with the World people in preparing your story? A. Did I tell them 55 per cent.?

Q. 55 per cent.? A. Yes, that appears in the story.

Q. Had you prior to going to the World ever figured up this amount? Had you ever taken the entire money in cash from the city and figured to see what it amounted to? A. Oh, yes, I did.

Q. Where is your statement of it? A. Where is the statement?

Q. Yes. A. You mean prior to the World?

Q. Prior to the World, did you ever go over your books and figure up what 55 per cent. amounted to, of the net profits of the business Cohalan got you? A. I went over the books, and I instructed —

Q. (Interrupting) No, no. What you did; never mind what you instructed? A. I went over the books myself, and with a general knowledge of everything, I instructed the bookkeeper to do thus and so, and I reached a conclusion from his work and my general knowledge of what the work consisted of, of the profits out of the cost book, and all the other items that went to make up the overhead charges of the business.

Q. Well now, I will go back and ask you over again. Did you ever figure up what 55 per cent. was of the work you obtained from the city through Cohalan's aid until after you saw some representative of the World? A. Oh, after I saw some representative of the World?

Q. Until after you saw some representative of the World? A. Well, now, don't get me involved.

Q. I haven't the slightest desire to. Isn't the question plain? A. Well, it is just —

Q. (Interrupting) I want you to tell me before you saw anyone connected with the World, did you, in the quiet of your office, with your books before you, ever sit down and try to figure up what 55 per cent. of this business amounted to? A. Why, after — in January, 1906, I began to do that, Mr. Stanchfield.

Q. You say you began to do that? A. Well, I instructed somebody to do it; I started to do it; I completed it, I think.

Q. Completed it when? A. Well, around that time.

Q. Where is that statement? A. Because I wrote him a letter

— there is a statement here, either marked in evidence or for identification.

Q. Is that the paper that was produced here yesterday, known as Exhibit 2? A. Well, now, don't twist me on the — it is what I call the third statement; I don't know whether it is Exhibit 2 or 42.

Q. 22, Judge Kellogg says. Is that the one? A. Well, if that is in the book.

Q. Take your glasses and see if that is what you have in your mind. (Counsel passes paper to witness.) A. Yes, I have to use glasses. (After examining paper.) No, it isn't the one; it was the last statement that I made up.

Assemblyman Levy.— A statement of tabulation, Mr. Stanchfield.

The Witness.— It is there in three pages.

Assemblyman Goldberg.— That was Exhibit No. 2.

Mr. Stanchfield.— I will get it in a minute.

(Mr. Chrystie passes paper to Mr. Stanchfield.)

Q. Is this the paper to which you refer? (Counsel passes paper to witness.) A. (After examining) Yes, sir.

Q. Now, when was that prepared? A. Why, I believe in 1906.

Q. And by whom? A. I think by Mr. Wylie; I instructed him to do it.

Q. Is Mr. Wylie here? A. He is.

Q. Subpœnaed as a witness? A. He is.

Q. Has he seen that? A. He has seen that, yes.

Q. Have you called his attention to it, or has it been called to his attention in your presence before the Bar Association, or elsewhere? A. I think it was called to his attention in the Bar Association.

Q. Now, upon that statement, does this $1,000 campaign contribution, and the $299 discount item appear? A. Yes, sir.

Q. Figured in? A. Yes, sir.

Q. So as to come as near as you could to this 55 per cent., that is right, isn't it? A. Yes, sir.

Q. Now, with reference to these various payments that were made to Cohalan — let me take that, please.

(Witness passes paper to counsel.)

Q. (Continuing). Nine — at various times, did you ever ask him for a receipt or get a receipt? A. I never asked him for one and he never gave me one.

Q. Did Cohalan with reference to any of these matters, concerning this work, ever write you a letter? A. Only on the back of his business cards.

Q. Have you got in your possession anywhere any letters from Mr. Cohalan? A. Nothing except in relation to a bill for services.

Q. That is the O'Hanlon bill? A. That is the O'Hanlon bill and the other bill. Yes.

Q. Now, outside of that item, have you in your possession any letter or any receipt or memorandum in writing of Judge Cohalan upon this subject? A. Outside of the —

Q. (Interrupting). Outside of that — A. (Continuing). Outside of the letter about the $105, which I think is a letter rather than a bill, calling my attention to it, and the O'Hanlon bill or invoice, and the four or five cards asking me to put men to work, I don't think I have got any letter from —

Q. (Interrupting). That is all you have? A. I believe so.

Q. Now, those cards, were they dated, those cards you say of his, upon which he wrote upon the back suggesting the employment of somebody? A. They were not dated, Mr. Stanchfield.

Q. When did you get them from him? A. When did I get them?

Q. Yes. A. During those years.

Q. 1903, 1904, 1905? A. 1904, 1905.

Q. 1904, 1905? A. Yes.

Q. And are those the same cards that you furnished to the New York World that have been published from time to time? A. They were all published together.

Q. What is that? A. They were all published together.

Q. Those are the cards? A. Those are the facsimiles of the cards.

Q. So that in your preparation of your story and of your examination before the Bar Association, and elsewhere, you have produced everywhere everything you had in writing from Cohalan, haven't you? A. I believe so.

Q. Those cards, you say, were not dated? A. No, sir.

Q. Are those cards of which you are speaking in the room? A. (No answer.)

Q. Are they with the Bar Association? A. I think they are.

Mr. Stanchfield.— Have you those cards, Mr. Chrystie? (Mr. Chrystie produces the cards.)

Q. I hand you four cards, being the cards of Daniel F. Cohalan, counselor at law, 281 Broadway, New York, and ask you whether those are the cards to which you referred in your testimony as having received from him during the years 1904 and 1905? A. They are. Received — they were presented to me by men.

Q. Presented to you by the men as coming from him? A. Yes.

Q. And the writing upon them is his handwriting, in your judgment? A. Yes, sir.

Mr. Stanchfield.— I will offer those in evidence. I don't care about the contents. They can be marked as one exhibit.

Assemblyman Levy.— The record will show that there are four cards.

(The four cards referred to were received and marked Respondent's Exhibit B of this date.)

Mr. Stanchfield.— They are simply cards requesting —

Assemblyman Levy.— Hadn't you better read them into the record?

Mr. Stanchfield.— I will (reading)

"John A. Connolly, 2295 Broadway,

Dear Mr. Connolly.— This will introduce to you Mr. Joseph Starrett in whom I am much interested. Will you kindly give him some work the first chance you have and oblige,

Yours very truly,

DANIEL F. COHALAN."

Mr. Stanchfield.— The second card (reading)

"Dear Mr. Connolly.— This will introduce James Flanagan of whom I spoke to you. Will you kindly put him to work.

Yours,

D. F. COHALAN."

Mr. Stanchfield.— The next (reading)

"Dear Mr. Connolly.— Mr. C. E. Montgomery is a friend of mine. If you place him it would oblige me.

Very truly yours,

D. F. COHALAN."

Mr. Stanchfield.— The fourth (reading)

"Mr. John A. Connolly, Victor Heating Company, Broadway, near 83d street.

If you could put the bearer, Mr. James Mahar, to work it would be a favor to me.

Yours very truly —

The Witness.— That must be Meehan.

Mr. Stanchfield.—"It would be a favor to me."

The Witness.— Isn't it James Meehan rather than Mahar? M-a-h-a-r?

Q. It may be Meehan. I imagine so. A. Yes, James Meehan.
Q. Outside of those —

Assemblyman Gibbs.— Are those cards dated, please?

Mr. Stanchfield.— No, they are not. He says they were received in 1904 and 1905.

Q. Outside of those four cards and the bill that was presented you haven't in your possession anywhere a vestige of handwriting from Mr. Cohalan? A. Outside of the cards and the bills?

Q. Yes. A. I have none, no, not that I recall.

Q. You have been asked to look and you have searched, haven't you, to see whether you could find any writing, letters or papers from Mr. Cohalan? A. I have searched, yes.

Q. Did you yourself write to Cohalan and ask him at any time whether or no he knew of any men that he could send to you to work? A. I remember writing a letter about some man named Giles that he sent me.

Q. Did you write him upon more than one occasion? A. And something about a man named McCormick, I think.

Q. That is, you wrote. You have now a recollection of Judge Cohalan sending you first a man by the name of Giles and second a man by the name of McCormick? A. I said I put — the man that you sent me, John Giles, to work this morning. I recall that in a letter to him.

Q. What I am asking you is whether you wrote to Cohalan at any time asking him to send you men to work? A. I don't recall that I did. We saw so much of each other that he would tell me about it or request me and while I might have —

Q. These men that were sent to you, you have testified came along during 1904 and 1905? A. Yes, sir.

Q. It was in the fall, if your recollection and your evidence is correct, of 1906, that you and Cohalan quarreled about this $2,500 wasn't it? A. In the fall?

Q. Yes. A. No, it was in the beginning of 1906.

Q. In the beginning of 1906. Now, you paid him $500 on two occasions in the fall, one in September and one in November, making the $1,000? A. Yes, sir.

Q. Now, had your ill feeling as a result or consequence of this quarrel which you say took place early in 1906, continued during the whole of that year? A. No, we were brought together by a mutual friend.

Q. In 1906? A. A warm friend of mine became a friend of his.

Q. Who was that? A. Mr. Washington Hull, an architect.

Q. Was that in 1906? A. Yes, that was in 1906, Mr. Stanchfield.

Q. Now, were you corresponding with Cohalan in 1906, yourself? A. I may have been.

Q. I hand you a letter dated October 9, 1906, and ask you whether or not you at that time sent him that letter (handing paper to witness)? A. Yes, I sent him that letter.

Mr. Stanchfield.— I offer in evidence this letter of October 9, 1906, to Daniel F. Cohalan, 271 Broadway, stating: "My dear Mr. Cohalan"— dated October 9, 1906, on the letter paper of the Victor Heating Company.

Mr. Kellogg.— Had you not better have that marked as an exhibit?

Mr. Stanchfield.— I am going to.

"If you know of two or three poor devils who want work at $2 per day, send them up here with your card. You know the kind I prefer, but whoever you send will be satisfactory. Yours truly, John A. Connolly."

Will you mark that.

Same marked Respondent's Exhibit B.

Q. Now you testified here, Mr. Connolly, in response to an inquiry from Judge Kellogg, that there came a time in the course of your business relations with Mr. Cohalan, when you tore out

of the letterpress book the copy of that 55 per cent. letter that has been referred to. Do you recall it? A. I recall it.

Q. Do you recollect about when you did that? A. It was after the Democratic National Convention at St. Louis in 1904.

Q. When Judge Parker was nominated? A. When Judge Parker was nominated.

Q. Did you attend that convention? A. I didn't.

Q. Do you recollect whether Cohalan did ? A. Yes, I know he did.

Q. He was simply an alternate delegate, was he not? A. I don't know whether he was an alternate or delegate.

Q. You said you knew, that is the reason I am asking, whether he was a delegate or alternate. If you know, I would like to have you tell me. A. Well, I could not swear now whether he was a delegate or an alternate. I imagine he was a delegate.

Q. You know that he did go to that convention? A. Yes, I know that.

Q. Now, when he came back, had you had trouble with O'Hanlon? A. Oh, yes, O'Hanlon made trouble for me prior to the convention.

Q. Now, I am asking you whether, at the time of his return from St. Louis, your trouble with O'Hanlon was on? A. It was.

Q. Was that the reason that induced you to tear out that copy of the letter, that you had trouble with O'Hanlon? A. It was.

Q. Well, now, O'Hanlon is the man, according to your story, that took down that letter at your dictation? A. Yes.

Q. O'Hanlon was present, according to your story, when you copied it into the letterpress book? A. He was.

Q. So he was perfectly familiar with the letter and its contents, of course? A. He was.

Q. Now, what reason was there for tearing that out because of the controversy you had with O'Hanlon? A. What reason?

Q. Yes? A. Why, I knew that after I was served and had read the complaint and about his general opinion of Cohalan, that it might make trouble for Mr. Cohalan and myself, inasmuch as it was in the back of the letterbook —

The Chairman.— Some of the committee cannot hear the witness.

Q. The gentlemen over here cannot hear you. You will have to speak up louder. A. It was in the back of the letter-book, and I thought it better to take it out and hand it to him, knowing

he had the original, and that if O'Hanlon did say anything about it, or wanted to make trouble about it, that it was not a matter of record in the company's books.

Q. In other words, as between you and O'Hanlon, you wanted to destroy that as evidence, is that the idea? A. Well, I wanted —

Q. Now, answer me, as between you and O'Hanlon, you wanted to get it out of the possession of the company and out of your possession? A. Yes, I wanted to give it to Mr. Cohalan.

Q. What was there on the face of that letter that required that action on your part? A. Well, I didn't want it to become public.

Q. You didn't want it to become public. That is the only explanation you can give of that transaction? A. If there is a lawsuit or dissolution of the firm and he was my lawyer, I didn't want such a thing in there in the books.

Q. I see. You say you handed that to Cohalan on a Broadway car? A. Broadway, open car.

Q. Whether open or closed, I am not concerned, but on a Broadway car, is that right? A. That is correct.

Q. And that he took it in his hand and crumpled it up and said that would be a case for the grand jury. Is that right? A. Yes.

Q. Is that right? A. That is right.

Q. Now, there is not a syllable of that kind in the story you gave to the New York World, published in May, 1913, is there? A. There may be.

Q. Well, do you recollect whether there is or not? A. I cannot recollect it now.

Q. Well, you could not find it there if you tried? A. I might find it — you mean in the printed one?

Q. I mean in the printed statement you gave to the New York World? A. If you say it is not there, I will take your word for it.

Q. When did it occur to you, or when did you first make the statement that you had given that to Cohalan, and he said it would make a case for the consideration of the grand jury, or in substance that? A. When did I state that?

Q. Yes, when did you first breathe that to any human being? A. When did I breathe it to any human being?

Q. Yes, first. A. I may have mentioned it to Mr. Scallon, it may be in his report.

Q. About that you are not definite? A. Well, I am not positive, no.

Q. Well now, you realize how important that statement is, don't you? A. Well, I realized the import of it from his expression at that time.

Q. Yes. A. And from that time on.

Q. That it would make a case for a grand jury? A. Yes, sir.

Q. You understood when he said that it meant that somebody might be indicted in consequence of what was upon the facce of that letter, didn't you? A. Yes, sir.

Q. And you cannot tell us to whom you have ever spoken of that subject, until today? A. I can't tell whom?

Q. Yes. A. Oh, I have told it to —

Q. To whom? A. I have not told it to many, because I didn't care about telling it, Mr. Stanchfield.

Q. Well, when you prepared that article for the New York World and you were out for revenge, you were willing enough to tell it, if it was true? A. Oh, after seven years of happenings, etc.—

Q. (Interrupting). No, no. When you prepared that article for the New York World for revenge you were willing enough to tell it if it had occurred to you and it was true? A. Oh, it has occurred to me year after year.

Q. Well, then, why didn't you put it in your statement to the World? A. Why? Well, by some mental process I must have come to the conclusion not to put it in.

Mr. Stanchfield.— He said by some mental process he must have forgotten.

Mr. Kresel.— No, he must have come to the conclusion.

Q. What did you say? A. Will the stengrapher read it, please.

Q. I understand you to say — A. (Interrupting) I didn't say forgotten.

(The stenographer thereupon read the answer referred to as follows):

A. Well, by some mental process I must have come to the conclusion not to put it in.

Q. By some mental process I must have come to the conclusion not to put it in. Now, have you, at the moment that you are sitting there the slightest recollection at all of ever having mentioned this to anyone whom you can name, until you testified to

it here? A. Oh, I imagine I must have mentioned it to Mr. Scallon, we were old —

Q. (Interrupting.) You say that you imagine that you did. I want to know if you did? A. Yes; we were old friends and when I made up my mind to do it I must have told him that.

Q. Did he take it down in his statement? A. It may appear in the report; I can't swear to it.

Q. Well now, when you say the report, what report do you have reference to? A. I have a report in a book that the Bar Association has.

Q. That is prepared by Mr. Scallon? A. Prior to the writing of the story, prepared by both of us acting in conjunction.

Q. Prepared by whom? A. By Mr. Robert O. Scallon and myself.

Q. And that report you say you took to the Bar Association? A. Either that or it was taken for me.

Q. Well now, is that report any different than your first article in the New York World? A. Oh, the report is an entirely different process.

Q. With reference to the facts, I mean, generally speaking, is it different from the article in the New York World? A. Why, the report is another proposition, Mr. Stanchfield.

Q. When you say report, what do you mean by a report? A. Just what it — just what the meaning —

Q. To whom was it addressed? A. Oh, it was — we will call it an investigation.

Q. You are calling it. You say it was a report. To whom was it made? A. It was a report made by Mr. Scallon for his employers of the facts as I gave them to him and which predicated a newspaper story or which predicated submitting it to a lawyer for advice.

Q. Was that report prepared prior to the publication of this article in the New York World? A. Oh, absolutely.

Q. You concede, didn't you, in your statement, that it does not appear in that article? A. If you say so I believe you. I cannot recall every word in that statement.

Q. I am calling your attention to that article of May 26, 1913, which was signed by you and which you say was correct? A. (Witness reads paper.)

Q. I do not want to take up the time to read it, but it does not appear in that article? A. I told you I would take your word that it does not appear there.

Q. I want to know if you are willing to swear here that you told that fact to Scallon before that article appeared? A. I believe I must have.

Q. It is simply a matter of belief with you then. You state that Cohalan said as he crumpled that up "that would make a case for the grand jury"? A. That or "this would be a case for the grand jury."

Q. This would be a case for the grand jury? A. "And I am glad you have got it."

Q. You never have had any talk with Cohalan on the subject of that 55 per cent. other than what you have testified to here? A. Oh, I don't think so.

Q. Will you tell us what there was on the face of that letter that would be a subject for a grand jury, as you saw it? A. Now, I am a steamfitter.

Q. Putting myself in your place, you tell me what there was on the face of that letter that made it a case for the grand jury? A. It is beyond me.

Q. You don't know, in other words? A. I am not a lawyer; I am a steamfitter.

Q. Do you think it requires a lawyer to tell whether upon the face of a letter a criminal act appears? A. I don't know whether it was a criminal act or not, making a private —

Q. What you have got in your mind and that you are not expressing is that this money was not for Cohalan, isn't it? A. You say I have got something in —

Q. Is that what is in your mind? A. Well, there are a great many things.

Q. Isn't that among other things in your mind? A. That that money was not for —

Q. Cohalan? A. Cohalan. Well, he spoke about "they," at different times.

Q. You were perfectly willing to furnish money for "they" as you expressed it, weren't you? That did not trouble you? A. Are you asking me a question?

Q. Isn't that so? That is a very pointed one. You were perfectly willing to take the money of your concern and pass it over to Cohalan with the idea that it was to be distributed to whoever they might mean, weren't you? A. Yes.

Q. That did not interfere with your sense of moral right or wrong at all? A. I don't know how you term that I was willing —

Q. Well, it is that thought. A. — to pay for getting work and Mr. Cohalan seemed to be the medium at the time and I paid it.

By the Chairman:

Q. Mr. Connolly — A. What is it?

Q. At the time you tore that letter out of the book that you say you gave to Judge Cohalan, did he crumple it up in his hand — A. Crumple up what ?

Q. I say at the time that you tore the letter out of the book, the letter that you gave to Judge Cohalan he crumpled up in his hand. Did you think there was anything criminal in that letter? A. Did I think so?

Q. Yes. A. Oh, I am free to admit I did not think so.

By Senator Wagner:

Q. You did not at the time you wrote it? A. I did not.

Q. Or you would never have copied it in the book? A. Well, I thought I was —

By Senator McClelland:

Q. What did you tear it up for? A. What did I tear it up for?

Q. Tear it out of the book?

Senator Wagner.— He tore it out of the book.

Mr. Schaap.— May I ask a question?

The Witness.— One, gentlemen —

Assemblyman Levy.— He has withdrawn his question.

The Chairman.— Senator McClelland was not here yesterday.

By Mr. Schaap:

Q. Was the meeting with Judge Cohalan on the Broadway car accidental at the time you gave that letter — A. No, it was not.

Q. You were on a Broadway car by design? A. We were together that afternoon, as I recall it, or I dropped in to see him.

Q. You gave him a page from the letter book on the Broadway car? A. Yes.

Q. You had it in your pocket at that time? A. Yes.

Q. How long did you have it in your pocket? A. I don't think very long.

Q. What I am getting at is had you met Mr. Cohalan at any place before that time and gone with him to take a Broadway car? A. I believe I was down at his office late that evening and we came on uptown together and I know he left me to go to the Marlborough Hotel.

Q. Was it accidentally that you had this sheet, this letter sheet in your pocket, at the time that you met Cohalan, or did you go to Mr. Cohalan's office purposely with that paper in your pocket, to give it to him? A. Well, I was determined, on account of O'Hanlon's animosity, to take any evidence out of the book in relation to that transaction, and handed it over to the gentleman that he wrote it — was addressed, so as he knew that there was no copy out.

By Assemblyman Levy:

Q. Why, didn't you give it to him at the office? A. What?

Q. Why didn't you give it to him at his office? A. Well, I said I met him; now, it wasn't designed; I can't recall — I recall the incident, Mr. Levy, distinctly.

Q. Mr. Connolly, you say you met him at his office? A. I either met him at his office or telephoned him, or that we met in some way, and we started uptown together, and the matter must have come up in some way, and I said, I assume, by the way, I took out that letter; O'Hanlon is ugly and you better have it.

Q. Now, how long had you been with him before you finally reached this Broadway car? A. How long had I been with him?

Q. Yes. A. I am sure that is beyond me. I can't recall that, Mr. Levy.

Q. Have you no idea of the time? A. No, I can't fix it absolutely.

Q. Was it as much as an hour? A. Well, I really,— I really can't tell.

Q. Half an hour? A. Well, pin me down to ten minutes, Mr. Levy, I don't know.

Assemblyman Cuvillier.— Can you recall the contents of any of the letters?

The Witness.— I believe I testified yesterday briefly just what it was.

Assemblyman Cuvillier.—What was the contents, if you recall it?

Assemblyman Weil.— Mr. Chairman, I should like to ask a question.

The Witness.—(To Assemblyman Cuvillier) Have you withdrawn?

Assemblyman Cuvillier.— No.

The Witness.—Why, it briefly stated, Mr. Cuvillier, that we agreed to give him 55 per cent. of the net profits of the business of any city work that he turned in to us.

Assemblyman Cuvillier.— That was all?

The Witness.—Yes, sir, as I recall it.

Assemblyman Weil.— Mr. Chairman, I should like to ask a question with your permission.

By Assemblyman Weil:

Q. Mr. Connolly, I want to know why you wanted to give Mr. Cohalan that copy of the letter when you knew he had received the original letter? A. Well, I just told this gentleman on your right (indicating Assemblyman Schaap).

Q. Why couldn't you destroy it yourself, without bringing it to Mr. Cohalan to be destroyed? A. Oh, I thought it would be better for him to know — that he had the original, and that we made a letterpress copy at the time he was in it, to him, when there was a partner raising a row.

Mr. Stanchfield.— Shall I go ahead?

Assemblyman Levy.—Yes.

By Mr. Stanchfield:

Q. Will you fix a time, Mr. Connolly, when your relations broke off with Mr. Cohalan, and you became estranged from him? A. Why, I think it was in January, 1906.

Q. Well, in January, 1906. Now, you say that your troubles at that time were patched up through the intermediation of a Mr. Hull during that year? A. Yes.

Q. Now, when did they become estranged again? A. When did they become estranged?

Q. Yes. A. In May, 1907.

Q. In May. What happened in May, 1907? A. Oh, he said something about the — I see you are getting the Water Supply work again, etc.

Q. Yes. A. He said I ought to have —

Q. (Interrupting.) And he wanted you to pay him — A. (Interrupting.) Yes, he said something about the —

Q. (Continuing) — some money? A. He said something about 10 per cent? I told him that I had made different arrangements, and I didn't see where he came in for any money on it, and I expressed my opinion of him at the time, that his constant desire seemed to be to get money out of me.

Q. That was in the spring of 1907. Now, when you — A. (Interrupting). That was in May, 1907.

Q. When you told Cohalan at that time that you didn't see where he came in, that you had made other arrangements to obtain work from the city, to what did you refer? A. To what did I refer?

Q. Yes. A. Why, that I had secured the work without his aid, and nobody was asking me for any money at all; my bill went through, and we were friendly, etc.; I knew the chief of the department was back of me, and that I had Hamilton Fish's influence, and when it came to the campaign of 1906, I felt that I ought to contribute, and I did contribute.

Q. In other words, you felt that you had made an alliance with Hamilton Fish, and that you didn't need Cohalan any longer; is that about the English of it? A. No, that isn't the English of it.

Q. You told him that you said — or had in mind the fact that you had made an arrangement with Hamilton Fish to get some of this work? A. Well, the people that Mr. Cohalan used his influence with —

Q. (Interrupting)—Were out of office? A. Were out of office?

Q. Yes. A. Mr. Goodwin was not out of office, and I recall some clerk telling me that when the first order came, it was O. K.'d, and Goodwin said, "Well, I suppose I have got to sign it; he has got Hamilton Fish back of him."

Q. Did you tell that to Cohalan, or was that what you had in mind when you said you had made other arrangements? A. Well, I said he didn't have anything to do with it.

Q. Precisely. Now, that was in May, 1907. How long did this estrangement continue? A. May, 1907?

Q. Yes. A. Oh, the estrangement continued there — all the balance of that year, and the entire year of 1908 I tried —

Q. (Interrupting.) Continued down — A. (Continuing.) I tried many ways to patch it up myself.

Q. By sending people to him? A. Well, people did go to him, I believe.

Q. Well, at your instance? A. At my instance?

Q. Yes. A. I believe so.

Q. Yes. When you say you tried in many ways to patch up your troubles with Cohalan, you mean that you got people all the while — you were sending representatives to him, in order to restore your former friendly footing with him, isn't that so? A. Well, some volunteered, —

Q. (Interrupting.) Some volunteered, and some you requested? A. I did not want to —

Q. (Interrupting.) Will you answer my question? Did you send these people to him from time to time to see if they couldn't restore you to your former footing with him? A. Why, Mr. Stanchfield —

Q. (Interrupting.) You can answer my question yes or no. A. Well, I will. Did I send people from time to time to him?

Q. Yes. A. Oh, I think one or two men went on my instance.

Q. Well, now, during all of this period of time, when you were estranged from him, until the beginning of the year 1909, you were a constant and persistent seeker for some political office, weren't you? A. A constant and persistent seeker for some —

Q. (Interrupting.) For public office? A. For public office?

Q. Yes. A. Well, I got a good jolt in 1907, —

Q. (Interrupting.) I didn't ask you what jolts you got. I asked you whether you were not a constant seeker for public office? A. No, I wasn't a constant seeker; I had other duties to perform.

Q. Your other duties related to the business of the Victor Heating Company? A. Yes.

Q. You have testified here that at one time you were an aspirant for the assistant librarianship? A. Yes — not the assistant, for the librarianship.

Q. Just what particular training or education had you, that fitted you for the librarianship of this State? A. Why, I felt in the long run if I had been appointed, of my predecessors, that I had been just as competent as any of them.

Q. You were also a candidate for a tax commissionership? A. A corporation tax commissionership.

Q. A very earnest candidate for that place, weren't you? A. I was what?

Q. I say you were a very earnest candidate for that place? A. Well, the very Honorable Robert W. Chanler —

Q. Answer me, were you an earnest candidate? A. I was an earnest and sincere candidate for it.

Q. What campaign was it when you made, as you said here yesterday or today, a large individual contribution to it? A. How is that, Mr. Stanchfield?

Q. What campaign was it, where you said you made a large individual contribution to it? A. In the 1906 campaign.

Q. That was the Hearst campaign? A. That was the Hearst campaign.

Q. How much did you contribute out of your own pocket to that campaign? A. How much?

Q. Yes. A. $833.

Q. Well, you have stated here in the New York World article which you told me was true, that you put up $2,500, didn't you? Which is true? A. Both are true.

Q. Both are true. A. That is two gentlemen gave me the other $1,600 to make up the other $2,500.

Q. I am talking about your individual contribution that you were using as a basis to get public place. Didn't you state in the World article over your signature that you put up $2,500 out of your own pocket? A. I don't think I did. I said I raised it.

Mr. Kresel.— You said you contributed that much.

Q. I will read it to you here, I will read it. "Hearst ran for Governor that year and I contributed $2,500 to elect the State ticket." I contributed — did you contribute $2,500 individually? A. No, I got two men to help me.

Q. Did you contribute $2,500 to that campaign? A. Did I contribute?

Q. Yes. A. I raised $2,500 for that campaign and endorsed a note for Mr. Chanler for $2,500 more, and which I got the money on and turned it over to Mr. Chanler or to the people that he told me to.

Q. Well, let us see, Robert W. Chanler? A. Robert Winthrop Chanler.

Q. He who was the one-time sheriff of Dutchess county? A. He was elected sheriff of Dutchess county that year.

Q. The State committeeman? A. The State committeeman.

Q. I thought he was a millionaire? A. Well, I have met millionaires in my time that have been broken.

Q. That is what I am interested in. Did you have to endorse his note to get cash on it, is that what you mean by your testimony? A. Did I have to endorse his note?

Q. Yes. A. He made out a note and I endorsed it with some other gentlemen.

Q. When you said you contributed this $2,500 how much of it did you put in? A. My share at the time?

Q. How much was your share? A. One-third.

Q. Did you put in one-third? A. I did.

Q. Where did you get it? A. Where did I get it?

Q. Yes, where did you get it? A. I must have got it out of the Victor Heating Company.

Q. Well, did you, that is what I want to know, not what you must have done? A. I am seeing if there is any money coming in from any other source, I am trying to think; this is a new one.

Q. Did you take $833 of the Victor Heating Company's money and put it into a political campaign? A. I probably did.

Q. Well, did you? A. Oh, I assume that I did, Mr. Stanchfield.

Q. Who were the other two contributors to that $2,500? A. Who were the other contributors?

Q. Yes. A. To make up the amount?

Q. Yes. A. Is it necessary that I should tell it?

Q. Not if you don't care to, if there is no reason that you don't care to name them, you needn't. A. I will whisper it to the Chairman, or I will whisper it to you.

Q. I will pass that. Was that the same $2,500 that you referred to as the Chanler note that you indorsed? A. Oh, no; that was an addition.

Q. That was an additional amount? A. Yes, sir.

Q. Did you say to L. J. O'Reilly after the Hearst campaign that you had contributed at any time $2,500 to Hearst's campaign yourself? A. I didn't know L. J. O'Reilly in 1906.

Q. Didn't you tell me a little while ago you met him somewhere near the Hearst campaign? A. I told you some time ago, in this chamber, this afternoon that I met Mr. L. J. O'Reilly for the first time in 1909 in the mayoralty campaign.

Q. Did you ever have any talk with O'Reilly about your con-

tribution to the Hearst campaign no matter when you met him? A. Oh, I think he knew it; I must have told him.

Q. Did you seek through him to get a return of this contribution? A. Did I seek?

Q. Yes. A. To get a return?

Q. Yes, through O'Reilly. A. What do you mean by a return?

Q. A return of your contribution to the Hearst campaign. A. Oh, no; which campaign?

Q. Any campaign. A. I contributed $100 to the 1909 campaign.

Q. Was that when Hearst ran for mayor? A. Yes.

Q. You contributed that before election? A. I contributed that before election, when I got broke—

Q. After election did you go to O'Reilly and try to get it back again? A. No, sir.

Q. Did you say anything to him about it? A. When I went to Mr. O'Reilly, when I gave the campaign contribution.

Q. What did you say to him? A. I wrote out the check in his presence.

Q. Didn't you go to him to get it back again? A. No.

Q. You are perfectly sure of that? A. Why, I am positive.

Q. What were you going to say when you started to make answer that when you got broke you did something? A. Oh, I asked him for help.

Q. How much? A. I told him I was—I would like to have a loan.

Q. How much? A. Why, I had just got employment.

Q. How much? A. Oh, I don't know the amount. He told me to come back in the next day and he would give me something.

Q. How much did he give you? A. He gave me $100.

Q. Now, Mr. Connolly, it takes a long while to get you to tell the truth. A. You are trying to fix the two things together and I did not propose to have you do it. He did that for me out of hand. It was not anything—it had not anything to do with the campaign contribution.

Q. You told me a few moments ago that you contributed to this $2,500, $833.33 as your share. Do you recollect that? A. Yes.

Q. You told me it was the money of the Victor Heating Company? A. Yes.

Q. Will you find that entry on the books of the Victor Heating Company for me?

Mr. Kresel.— Let him have the book, Judge.

Q. I will have the ledger handed to you and you will find that item. (Witness is handed ledger.) A. I would rather have the check stub books and I think I can get at it quicker.

Q. You can have whatever there is. (Check stub books handed witness.)

Q. Did you ever repay to Mr. O'Reilly this $100 that you say was borrowed of him? A. Did I ever repay it?

Q. Yes. A. Why, I told him I wanted to give —

Q. Did you ever repay it ? A. I told him I wanted to give a note and he would not take a note.

Assemblyman Levy.— Was it paid. That is the question I want to know.

The Witness.— No; it was not paid.

The Chairman.— Committee will adjourn until 7:30 p. m.

EVENING SESSION.

The Committee reconvened pursuant to adjournment at 7:30 P. M.

Appearances: Same as before.

John A. Connolly recalled.

Examined by Mr. Stanchfield:

Q. Mr. Connolly, I was asking you at or about the time of the adjournment with reference to the time when your relations with Mr. Cohalan became so estranged that there was no communication with you. When do you fix that date? A. After May, 1907.

Q. I think you so stated. That is in the month of May, 1907, there was a pronounced quarrel between you? A. Yes, sir.

Q. Do you recollect what day in May, 1907? A. Not exactly.

Q. Was that over the subject of the payment of money? A. I believe so.

Q. When did you next have any communication with him personally or by letter? A. Well, I may have made overtures by letter, but I did not see — I did not see very much of him after that. I do not think I saw him at all.

Q. Until when? A. During the year 1907. I might have met him or seen him somewhere on the street.

Q. I mean to have any conversation with him? A. I do not recall any.

Q. You say you didn't in 1907? A. Not after May.

Q. After May. Did you in 1908? A. To the best of my recollection I did not.

Q. During that period from May, 1907, until January, 1909, covering a little over a year and a half you never had any conversation with Cohalan? A. I do not recall any.

Q. When you say you may have made overtures to him do you mean by letter or by sending people to see him and intercede in your behalf for a restoration of your friendly relations? A. Well, by a letter or two, I imagine.

Q. You do recall in a general way that you wrote him a letter or two? A. Or sent him a telegram of some kind.

Q. Do you recall on what subject? A. Why, it was about the employment of a relative of his, an architect.

Q. Yes. A. Mr. Hull, if that is permissible —

Q. Never mind details, you say you sent him a letter about employment of a relative of his as an architect? A. A letter or a telegram.

Q. Or a telegram. Any other communication that you had with him by mail or telegram? A. I may have sent him a letter of congratulations.

Q. Yes. Anything else that you recall? A. That letter that you have put in evidence at the afternoon session in regard to employing two or three poor devils.

Q. Yes. That is all in evidence. Anything besides that? A. I cannot think of anything else at the moment.

Q. Now, there came a time, as you have stated, everything that you have done, according to the best of your recollection in regard to overtures to make peace, there came a time when you say you went to Mr. Cohalan's office, I think you say in January, 1909? A. Yes, sir.

Q. You went there seeking a personal interview with him? A. Yes, sir.

Q. You tell us that you saw at the time in his office a relative of his yourself? A. Yes, sir.

Q. And sent word in that you desired to see Mr. Cohalan? A. Yes.

Q. And the answer came back that he didn't care to see you then or at any other time? A. That is what his relative said.

Q. That is the gist of it, isn't it? A. Yes.

Q. Now, it was immediately after that that you consulted Mr. Cruikshank? A. I consulted him I believe a week prior from his register, as I understand it.

Q. Did you consult him before you went to Mr. Cohalan's office? A. Only in a general suppositious way.

Q. Did you go to see him with reference to any advice as to the propriety of your calling upon Mr. Cohalan? In other words — A. I don't think that came up, Mr. Stanchfield.

Q. In your answer that you say that you went to see him in a suppositious way — A. That is Mr. Cruikshank.

Q. Yes, sir. What did you mean by that word "suppositious?" A. I put a suppositious case to him.

Q. You put a suppositious case to him and asked his advice on the case, did you? A. I would say that was the question.

Q. Well now, you — can you fix the day in January when you went to Mr. Cohalan't office? A. Yes, it was January 11th.

Q. Now, how soon did you see Mr. Cruikshank after that interview at Cohalan's office? A. Why, I think I called upon him — I think I walked up Broadway from Rector street and turned into Cedar street and called upon Mr. Cruikshank.

Q. Now, that was with reference to the preparation, was it not, of the claim against Cohalan that was embodied in that letter in evidence of the Victor Heating Company? A. Yes, sir.

Q. Now, that was January, 1909? A. Yes, sir.

Q. Now, there was prior to that time upon the books of your company no statement of any claim against Mr. Cohalan, was there? A. No, sir.

Q. So, at that date you proceeded to put upon the leaves of the ledger that have been removed and destroyed, of the Victor Heating Company a statement of the indebtedness or advances that had been made to Mr. Cohalan? A. I would call it a memoranda account.

Q. Well, a memorandum of an account covering the payments that you had made to him back in the years 1905 and 1906? A. And 1904.

Q. And 1904. Showing an alleged indebtedness of Cohalan to the Victor Heating Company? A. Well, yes.

Q. Now, that statement that you put upon the books in Janu-

ary, 1909, showing this indebtedness of Cohalan to the Victor Heating Company was false, was it not? A. Well, if the memoranda account on the ledger is false, it was false.

Q. Well, that he was indebted to the company for moneys advanced to him was false, wasn't it? A. The letters stated that the moneys were —

Q. (Interrupting) No, no; we will get at the letter later. The statement in the memorandum account that he was indebted to the Victor Heating Company for those amounts advanced was false, wasn't it? A. Can I explain?

Q. No, that calls for an answer yes or no; it was false or it was true. Now, which way would you put it? A. It was a correct memoranda account of the moneys that were advanced to him.

Q. You mean the moneys that had been paid to him, don't you? A. Well, yes.

Q. All the moneys that you had paid to him you had paid in accordance with a bargain that you had yourself offered to him, of 55 per cent.; isn't that true? A. That is true.

Q. When you put this memorandum of account two or three years later on the books of your company, showing there were moneys advanced to him, that statement was false, wasn't it? A. It depends upon the word "advanced" there, Mr. Stanchfield.

Q. It depends upon the word "advanced"? A. Yes.

Q. If you paid him those moneys pursuant to an agreement you made with him in which you promised to pay him those amounts and did pay him those amounts, and afterwards put upon your book two or three years later a statement that he was indebted to you for that amount, that statement was false incontestably, wasn't it? A. (No answer.)

Q. Is there anything ambiguous — A. From your interpretation of it.

Q. Is there anything ambiguous about the question? If there is, I will try and clarify it? A. Well, there is nothing ambiguous about it.

Q. Very well. Then wasn't that statement false, confessedly so? A. The statement was correct as to the amounts.

Q. The statement was correct as to the amounts? A. Yes.

Q. But if you had paid those amounts to him pursuant to a contract, the statement that he was indebted to the company for them was, I will put it, erroneous? A. If I paid him in pursuance of a contract, a legal contract and then put —

Q. Never mind whether it was legal or illegal. You paid them in pursuance of a contract, didn't you? A. I paid him in pursuance of an agreement.

Q. Yes, in pursuance of an agreement, then, an agreement you offered him, and asked him to accept; isn't that so? A. Yes.

Q. I will ask you again, when you placed upon the books of your company the statement that he was indebted for those same sums, wasn't that statement false? A. Yes.

Q. This statement of account on that ledger was put on there by you personally, wasn't it? A. No, sir.

Q. Who did it? A. Mr. Wylie.

Q. At your direction? A. Only at my direction.

Q. Had you consulted with Mr. Cruikshank in regard to doing that? A. I did not.

Q. You did that of your own volition ? A. I gave the instructions purely on my own volition.

Q. That account was impressed upon the pages of the ledger that you say were cut out by Mr. Cruikshank with his knife on the evening that you had dinner together at Bretton Hall? A. Yes, sir.

Q. Far later? A. (No answer.)

Q. A long time afterwards? A. (No answer.)

Q. I say a long time afterwards? A. I answered yes to a question I thought you asked. I do not know what your interjection was afterwards.

Q. After you had placed that account on the ledger of your company you mailed to Mr. Cohalan the letter of January 12, 1909, did you not? A. I did not mail it; I sent it by messenger.

Q. Well, sent it by messenger.

Q. Now, I am going for the purpose of refreshing your recollection to read that letter which appears, Mr. Stenographer, on page 123 of the minutes:

"VICTOR HEATING COMPANY,
ENGINEERS AND CONTRACTORS,
2295 BROADWAY,

NEW YORK, U. S. A., *January* 12, 1909.

MR. DANIEL F. COHALAN, No. 2 Rector Street, New York:

DEAR SIR.— Our ledger shows that you are indebted to this company in the following amounts:" Do you get that language:

"Our ledger shows that you are indebted to this company in the following amounts:

October 29, 1904, cash	$500 00
December 6, 1904, cash	200 00
January 20, 1905, cash	185 00
January 23, 1905, cash	55 55
May 22, 1905, cash	1,000 00
August 2, 1905, cash	1,000 00
September 17, 1906, cash	500 00
November 10, 1906, cash	500 00
	$3,940 55

It is not convenient for us to carry this account any longer and we would thank you for your check to balance it. The writer called on you yesterday and was unable to see you or obtain any appointment. Therefore we are obliged to notify you that if after a reasonable time we do not hear from you we shall place the account in the hands of our counsel for such action as he may advise.

Very truly yours,
VICTOR HEATING COMPANY,
(Signed) JOHN A. CONNOLLY."

Now the statement in that letter was predicated on this false account that you had put in your ledger, wasn't it? A. Mr. Cruikshank —

Q. Never mind, Mr. Cruikshank. A. It was predicated upon —

Q. Upon the false account that you had put in your ledger? A. Upon the memoranda account that I ordered placed in the ledger.

Q. Upon the false memoranda account that you had ordered placed in the ledger? A. Oh, well, we won't split hairs about it, we will call it a false account.

Q. You said it was a false account a few moments ago? A. I will call it whatever you say.

Q. You must do the testifying? A. Yes, I am frank about it.

Q. You are under oath, I am not. I ask you again if it was not predicated upon that false account that you put in your

ledger? A. It was predicated upon the false account that was placed in the ledger.

Q. And when you stated (reading): "It is not convenient for us to carry this account any longer and we would thank you for your check to balance it," you referred to the false account that you had put on there within 24, 48 or 72 hours? A. Yes.

Q. Now, you testified yesterday as a reason for writing this letter, in substance, that you were sore at the treatment that you had received from Mr. Cohalan? A. Yes.

Q. Well, now, you hadn't seen Mr. Cohalan since May, at least, 1907, had you, to speak to him? A. If I attempted to speak to him I was snubbed for the pains.

Q. No, no, no. Haven't you told me here this evening that you had not seen him to talk to during that period of time from May, 1907, until this letter was written? A. Oh, I met him at different times.

Q. Did you speak to him? A. I spoke to him, but there was no rejoinder; he simply snubbed me.

Q. Well, I was careful to ask you whether you had any conversation with him, or whether you had seen him, or had any communication with him except by mail, and you were very careful to go over the letters that you thought you might have written, and the telegram that you had sent during that period of time, isn't that so? A. That is so.

Q. And did you make the slightest allusion during that whole period to ever having met him or spoken to him? A. I believe I did, Mr. Stanchfield, that I might have met him.

Q. Well do you say now that you did meet him in that period? A. Searching my memory, I think, yes. I recall meeting him distinctly at the — Oh, when the Irish-American Athletic Club paraded down Broadway in honor of the Olympic games.

Q. Did you have any conversation with him? A. I spoke to him. He was coming up the steps of the club house and I was going down.

Q. And he did not reply? A. He did not reply.

Q. Do you have in mind, now that I have refreshed your recollection, as to what you testified to any other period when you saw him? A. To the best of my recollection now I do not recall any other incident.

Q. Now, was the fact that during that year and a half Cohalan had on this one occasion not spoken to you in response to

your salutation, a sufficient basis for you to put up — A. (Interrupting). No, there were many other things happened, Mr. Stanchfield.

Q. But with Cohalan. You hadn't seen Cohalan, had you? A. I had seen Cohalan.

Q. But not to speak to him? A. I just told you of an instance where I had seen him.

Q. But you say that he didn't respond? A. He didn't respond, but I heard through —

Q. (Interrupting). I ask you if what you have related is all the basis you have got for your making this false claim against Cohalan? A. There was other reasons, there were other reasons, sufficient, cogent reasons —

Q. (Interrupting.) Not that Cohalan had with you. A. Oh, Cohalan talked about me; people came and told me.

Q. He talked about you? A. Yes, as a man who did not —

Q. (Interrupting). That is only gossip? A. As a man who did not keep his agreements; those things came to me direct.

Q. These gossips came to you and told you — A. (Interrupting) I wouldn't call it gossips when an old friend calls upon you, Mr. Stanchfield, who you had introduced to him, and who he had got a fee from —

Q. (Interrupting) What from? A. A fee from; f-e-e fee, and told you certain tales of what he said, I naturally listened to it.

Q. Did you write to Cohalan about what you had been told by this old friend who had gotten a fee, who had heard a talk, anything about this talk? A. Had I written to Cohalan?

Q. Yes. A. Oh, I don't believe I did.

Q. No. Well, now, is there anything more that you can think of that justifies you in making this false claim against him? A. Why, he said that I was a man that didn't keep my agreements.

Q. Yes, you have told me that once. A. And he also mentioned a certain position that I did not get that I was after. And if you will let me talk about the reason, when I called upon him — when I called upon him, there was another reason. I was a candidate for one of the Aqueduct Commissionerships, and I had received a very strong letter of indorsement from the State Committeeman and presented it to Mr. Murphy, and Mr. Murphy told me that, well, he said, if it comes before Mills I can't do anything; if it comes before Justice Keogh I will be able, I think, to get you one. Now, I felt when I went down, I didn't get it; there was

fifteen of them announced the night before Christmas of 1908 — and I made up my mind, Mr. Stanchfield, when I called upon him on January 11th, to make some sort of a reconciliation. In other words, to surrender to him, to surrender abjectly to him, and when his uncle came out with that very cold stereotyped style of his, whom I had befriended and made those remarks, Mr. Cohalan cannot see you now or at any other time, I made up my mind that if he was determined to do those things with the power that he had, that he wasn't going to do it with the $3,940.55 in his pockets, profits that I had earned.

Q. In other words, out of revenge? A. Call it revenge, if you will.

Q. Listen to me. By false statements on your books, by perjured complaint, you meant to get that money back. Isn't that so? A. I was under —

Q. Isn't that so? A. Well, the perjured complaint, I will not admit that is so.

Q. Didn't you swear? A. I will not admit.

Q. Didn't you swear here to Kellogg that he did not owe the Heating Company this money? A. Did I swear that?

Q. Yes. A. I don't recall that.

Q. Didn't Judge Kellogg ask you the question point blank, whether or no Cohalan owed the Victor Heating Company this amount of money, and didn't you swear he didn't? A. Well, I —

Q. Answer me that. Didn't you swear that? A. I cannot recall that the printed evidence —

Mr. Kellogg.— The question I put was loaned.

Mr. Stanchfield.—Well, what is the difference? I will read from Judge Kellogg's question:

"Q. Had the Victor Company or yourself ever loaned Mr. Cohalan at any time the sum of $3,940.55, or any part of that sum?" A. I remember I said no, sir.

Q. And you said, "No, sir." Now you did swear to a complaint under oath alleging that you had given it to him, didn't you? A. On information and belief, and on the instructions of my attorney —

Q. No— A. — whom I hired for the purpose.

Q. Whether your attorney advised you or not, you were willing to lie about it, weren't you? Now answer me? A. I was willing to lie about it?

Q. Yes. A. I was doing the best to get my money back.

Q. You were willing to lie to get it back, weren't you? A. I was willing to lie to get it back.

Q. All right. A. One moment. I was not answering —

Q. I am not asking you anything further. A. I was repeating your question.

Q. I am not asking you anything further — A. I was repeating your question.

Q. I am not asking you anything further. A. I was repeating your question.

Mr. Kellogg.— He was repeating your question.

The Chairman.— Just a moment. Go ahead, what is it you want to say?

The Witness.— Now, the stenographer will —

Mr. Stanchfield.— Let him read it.

The stenographer read the question and answer as follows: "You were willing to lie to get it back, weren't you? A. I was willing to lie to get it back.

"Q. All right. A. One moment. I was not answering —".

The Witness.— You were willing to lie to get it back. That is your question.

Q. That is what you answered? A. I was in the hands of my counsel, and I did as he instructed me, and I asked his advice.

Q. When — A. Before I verified that complaint. I knew Dr. Cutter had verified the original complaint.

Q. Which you had refused to verify? A. Which I had refused?

Q. Yes. A. Did I ever state in any testimony I refused to verify?

Q. Were you willing to verify it? A. Was I willing to verify the original complaint?

Q. Yes. A. If my lawyer —

Q. Were you willing to verify it? A. If my lawyer instructed me, yes.

Q. Very well. You say with reference to the account put upon your ledger that was false, that your lawyer, Cruikshank, never knew anything about that? A. I say that?

Q. Haven't you said that this evening? A. I said that this evening.

Q. Was that true? A. Was that true? The account —

Q. The account you said was false that you put upon your books. You said you did it at your own instance, without the knowledge of your lawyer, Mr. Cruikshank? A. I believe that is correct, Mr. Stanchfield.

Q. This complaint for money loaned, that you verified under your oath, was based on that account? A. Was based on that account?

Q. Yes. A. Why, it was Mr. Cohalan's and Mr. Cruikshank's idea about the amended complaint. It was not —

Q. I asked you if it was not based on that account, if you will answer me, please. A. The amounts were; yes.

Q. And the fact that they were indebtedness to your company in the way of loans, as alleged and sworn to by you in that complaint, were based upon this statement in your books, put there at your instance, and this entry that you say was false, isn't that so? A. That is so.

Q. How long had you known Mr. Cruikshank? A. How long had I known Mr. Cruikshank?

Q. Yes; in 1909. A. Thirteen years. I met him in the 1896 campaign.

Q. He was a member of the law firm of Atwater & Cruikshank? A. Yes, sir.

Q. And during all of that thirteen years had been practicing law, hadn't he, in the city of New York? A. To the best of my knowledge it was.

Q. Is it your statement here that he advised you to testify, or to verify, rather, a complaint that he knew to be false? A. That he knew to be false?

Q. Yes. A. I don't know what was in his mind.

Q. But you did verify it, because you say he advised you to do it? A. I did verify it, because he advised me to do it.

Q. You say this account that was false was entered up on the book without the knowledge of Mr. Cruikshank, when he drew this complaint that you swore to. Did you tell him that the account upon which it was based was false? A. You mean this one I signed, Mr. Stanchfield?

Q. Yes. A. Did I tell him that it was false?

Q. Yes. A. Why, no; I told him — I told him the circumstances; I told him the entire story — I told him how —

Q. You did not tell him that you had just entered that account upon your ledger? A. All I told him about the checks, etc., and charges —

Q. Don't get away; let us hang onto the question. You did not tell him anything about the account on your ledger, that it was false, did you? A. I had the —

Q. No, sir. Answer my question. Did you tell him? A. I don't believe I went into great detail about what was on the back page of that letter.

Q. I want a direct answer to that. Did you tell Mr. Cruikshank that the account in your book was false? A. To the best of my knowledge, I don't believe that question came up.

Q. Very well. In other words, you mean by that answer that you did not tell him, don't you? A. I cannot recall. I cannot recall that part of it. I am not so sure that — I cannot — to the best of my knowledge — I did not tell him that phase of it.

Q. Isn't it a fact that this letter of January 12th that I have just read in your hearing was prepared in Mr. Cruikshank's office under his advice and direction, by you? A. No. I prepared it at my office, and brought it to his office, and then he corrected it in his own handwriting. He made changes.

Q. When you took that to his office the opening sentence was there, wasn't it, "our ledger shows that you are indebted to this company in the following amounts"? A. My recollection is that it was.

Q. You did not tell him when you took that letter there that the account upon your ledger showing those facts was false, did you? A. I did not tell him. To the best of my recollection I do not think the matter came up.

Q. Were you shown by Mr. Cruikshank this letter under date of January 26, 1909, written by the firm of Atwater & Cruikshank to Mr. Cohalan? A. What is the date, Mr. Stanchfield?

Q. Atwater & Cruikshank — I will read it.

"43 Cedar Street, New York,
January 26, 1909.

"Daniel F. Cohalan, Esq.,
2 Rector Street,
New York City.

Dear Sir: The Victor Heating Company has retained us in the matter of a claim against you for $3,940.55, money advanced at various times, particulars of which we understand have been

already furnished you by the Company and we have been requested by the Victor Heating Company to collect the same. We will be glad to hear from you at your convenience." Now, were you shown that letter before that was sent? A. I don't recall that. I was present at a letter that he spoke about a meeting that he dictated.

Q. That is a letter? A. Yes.

Q. I am asking you now whether you were in his office when that letter was prepared? A. I don't think I was, but still I may have been. I may have reported to him that I had heard no answer or gotten any word from Mr. Cohalan.

Q. There came, following along after these two letters, various other communications of which you were advised with reference to a meeting with Mr. Cohalan? A. There came other letters, yes.

Q. Yes. Of which you were advised? A. Oh, yes; Mr. Cruikshank kept me in touch —

Q. And a meeting was subsequently arranged? A. Yes, sir.

Q. Between you and Mr. Cruikshank and Mr. Cohalan? A. No, only between Mr. Cohalan and myself.

Q. Was Mr. Cruikshank present? A. No, sir.

Q. That meeting took place at Cohalan's office? A. Yes, sir.

Q. No settlement came out of that — that is true, isn't it? A. No settlement came out of that meeting.

Q. There was another conference arranged, wasn't there? A. Yes, sir.

Q. At Cruikshank's office? A. Yes, sir.

Q. Now about what month was that? A. The first meeting with Cohalan in there?

Q. Yes, at Cruikshank's office? A. May 7th.

Q. Now, on that May 7th meeting, at Mr. Cruikshank's office, you have that date in mind, have you? A. I have perfectly.

Q. At which you were present with Mr. Cruikshank? A. Mr. Chairman, can you open the windows a little or something?

Assemblyman Goldberg.— Is that May 7th of this year?

Mr. Stanchfield.— May 7, 1909.

Q. Judge Kellogg asked you this question: "Mr. Kellogg: On or about May 7, 1909. The witness: Yes. Q. Does that recall it to you? A. Yes. Q. What was it? A. Well, there was a

great deal said, Mr. Kellogg. Q. Well, can you recall in substance? A. (Continuing.) On both sides. Q. (Continuing.) As to amounts or as much as you can? A. Oh, there was a great deal said about gratitude and ingratitude on both sides by Mr. Cohalan and myself."

Assemblyman Levy.—What page is that on Mr. Stanchfield?

Mr. Stanchfield.—Page 133, at the bottom.

Q. That is all you stated there as to that conversation? A. That is all that I stated to Mr. Kellogg; I wanted to shorten it, I didn't want—

Q. You wanted to shorten it. That was not by any manner of means a tithe of what was said on that occasion? A. I didn't get that word, a tide.

Q. A tithe, a great deal more was said? A. A side, did you say?

Q. There was a great deal more said. A. A great deal more was said.

Q. A great deal more said than what your answer would indicate? A. A great deal more, yes.

Q. Mr. Cohalan, when you made this claim that he should refund this money he was very angry, wasn't he? A. He was very angry?

Q. Yes. A. Well, he seemed to be very determined.

Q. And he told you in the presence of Cruikshank, right to your face that you were a plain and simple blackmailer, didn't he? A. No, he didn't put it that way.

Q. Did he say that your demand was— A. He said that—

Q. Listen to me, did he say that demand was blackmail? A. He said "This is blackmail," and Mr. Cruikshank took him to task for his remark.

Q. I will get at that later. He said to you that your demand was blackmail? A. Oh, after a tirade or after a lot of talk he said, "This is blackmail."

Q. This is blackmail? Now, what Cruikshank said was that he would not take it if he knew it was a blackmailing case in his office, didn't he in substance say that? A. He said that anything that came into his office did not take on that nature, something to that effect.

Q. Didn't take on the nature of blackmail? A. Some words to that effect.

Q. In other words, he would not consciously or knowingly undertake a case of blackmail, and Mr. Cohalan said in turn to Mr. Cruikshank that the remark did not apply to him? A. I don't recollect that; I know he apologized immediately.

Q. He didn't apologize to you, did he? A. I don't — we were not in an apologetic spirit, either one of us.

Q. He let the remark stand as far as you were concerned? A. He let the remark stand.

Q. And it was blackmail as far as you were concerned. Now, Connolly, at that time in May, 1909, you had gone on the Fusion Committee, hadn't you, you were against Tammany, weren't you? A. May 7, 1909?

Q. During that summer? A. Oh, yes, I was on —

Q. Of course you were. A. I was thinking, Mr. Stanchfield, so as to be precise.

Q. Satisfy your recollection, I know all about it. You became a member of the Fusion Committee and you worked assiduously all summer and did all that you could to beat Tammany ticket, didn't you? A. Yes.

Q. Whatever it might amount to? A. Well, we were fairly successful.

Q. I thought Gaynor won? A. Gaynor?

Q. Yes, didn't he? A. That is a matter of record — Gaynor won, yes.

Q. And you did all you could to beat him, didn't you? A. Did all I could to beat Gaynor?

Q. Yes. A. Well, I was on that committee.

Q. You were there on that committee not as a figurehead? A. What?

Q. What were you on the committee for anyhow? A. No, I was not a wax figure in any committee.

Q. What were you on that committee for? A. I was trying to beat Tammany Hall.

Q. Yes. Well, now, the very next year you tried to get Commissioner Murphy and Mr. Sohmer to appoint you to office — A. (Interrupting) Commissioner Murphy?

Q. Commissioner Murphy, the leader of Tammany Hall? A. Commissioner?

Q. Mr. Charles F. Murphy. A. Oh.

Q. Do you take exception to calling anyone Commissioner? A. Well, I haven't heard him called Commissioner in a long while.

Q. Well, I suppose he had been called Commissioner in New York for some time? A. He was called Commissioner.

Q. You never heard Mr. Murphy spoken of as Commissioner Murphy, on your oath, is that true? A. I never heard?

Q. I say is it true? A. Oh, I have heard him called Commissioner.

Q. Now, you had been, if I recollect your testimony, a commissioner upon some condemnation commission to assess the value of lands in Westchester county? A. Westchester and Putnam.

Q. You never took exception to being called commissioner by virtue of that office, did you? A. Why, every time we turned around 42d street, Fifth avenue or around the Grand Union Hotel, we ran against a commissioner; there was a whole lot of commissioners in those days, Mr. Stanchfield.

Q. Well, I mean you were quite proud of the title? A. Well —

Q. (Interrupting) Well, reasonably so. Isn't it a fact that the very next year you tried to get Mr. Sohmer, who had been elected to State office, Comptroller, to appoint you a tax commissioner? A. Oh, I called upon —

Q. (Interrupting) No, no, no. Just answer that question. A. Yes, I tried. If there was any crime in it, I tried, I tried.

Q. Although the year before you had done all you could to beat Tammany, the very next year you got on your knees for place from Tammany? A. I didn't get on my knees; I am not in the habit of getting a public office on my knees.

Q. Haven't you said here in your testimony here that you abjectly got down to try and see if you couldn't make peace with Mr. Cohalan? A. I was ready to surrender abjectly.

Q. Well, surrender abjectly. Figuratively speaking, you were getting quite close to your knees then, weren't you, isn't that so? A. Well, I wouldn't go on my knees.

Q. It might be a good thing, perhaps, if you had? A. Well, that isn't —

Q. (Interrupting) I show you a letter dated November 23, 1910, and ask you whether or no that is your signature? (Counsel passes paper to witness). A. (After examining) Yes, that is my —

Q. (Interrupting) You wrote the letter and it is addressed to the Hon. William Sohmer, State Comptroller? A. Yes, there is no secret about it.

(Mr. Stanchfield here read the letter referred to, which was hereafter marked Respondent's Exhibit C).

The Chairman.— Is that letter in evidence?

Mr. Stanchfield.—Yes, I will put it in evidence.

Assemblyman Goldberg.—What is the date of that?

Mr. Stanchfield.— November 23, 1910.

Assemblyman Levy.—Are you offering it in evidence?

Mr. Stanchfield.—Yes.

The letter was received in evidence and marked Respondent's Exhibit C of this date. Said letter reads as follows:

"SAYWARD-CONNOLLY COMPANY,
84 West Broadway,
New York, November 23, 1910.

Hon. William Sohmer, State Comptroller-Elect, 40 Cedar street, N. Y.

Dear Sir.— I hereby respectfully apply for the appointment as Corporation Tax Commissioner. I have been for the past twenty-five years in the Heating and Ventilating business in this city.

I have also been identified with the matter of the appraisal of lands for the purpose of watershed in the Croton for the city of New York as a Commissioner of such appraisal on lands in Putnam and Westchester counties.

Hoping for the best, and expressing my thanks in advance for anything that you may do, I am,

Very truly yours,
JNO. A. CONNOLLY."

Q. Now, Mr. Connolly, did you feel that your fitness and capacity for that sort of a place were of such caliber that you were entitled to bolt the party one year and ask the rewards of victory the next? A. Well, I thought I had made my peace with Mr. Murphy in the March prior, and I was carrying out his instructions literally in a letter from Hot Springs, Virginia.

Q. Well, that is far off from the answer. Did you get my question? A. I thought I did.

Q. I asked you if you thought your fitness and capacity for that place were of such caliber that you were entitled to bolt the party

one year and seek the fruits of its victory the next year? A. If I bolted the party one year and was taken into camp the next year, and tried to do my best to elect the ticket —

Q. (Interrupting.) What, pray tell, did you do the next year? A. Oh, I — What, pray tell?

Q. Yes, did you do the next year? A. Oh, I couldn't do much that year.

Q. I say when, and what did you do? A. I spoke all I could in favor of the ticket and made bad friends —

Q. (Interrupting.) Are you a campaign speaker, among your other qualifications? A. Oh, I have been accused of oratorical bouquets in my life, etc.; I am not much of a stump speaker; it is very hard work.

Q. I had heard you were a poet. I didn't know you were an orator.

Mr. Kellogg.— I want to submit, if your Honors please, that the time is being taken up here by Governor Stanchfield to entertain the galleries. We would like to get down to business in a lawyerlike way, as befits the high position and the solemnity of the occasion.

Mr. Stanchfield.— You had him a day and a half; I have been only three or four hours.

Q. Now, you made the same sort of an application, did you not, Mr. Connolly, to Martin H. Glynn when he was Comptroller? A. Yes.

Q. This is a copy, but that is initialed by you, isn't it? (Counsel passes paper to witness.) A. (Witness examines paper.)

Q. The handwriting up in the corner? A. (Reading.) "Original forwarded J. A. C."

Q. Yes. The initials on it, I mean, aren't they in your handwriting? A. Yes, that is in my handwriting. (Witness examines paper.) Yes.

Mr. Stanchfield.— I propose to offer this in evidence, and then I will have done with the political phases of it.

(Mr. Stanchfield read in evidence the paper which was hereafter marked Respondent's Exhibit D.)

The Chairman.— Any objection to that?

Mr. Kellogg.— Not any.

Assemblyman Levy.— What is the date of that, Mr. Stanchfield?

Mr. Stanchfield.— December 21, 1906.

Assemblyman Goldberg.— Has that been offered in evidence?

Mr. Kresel.— Have that marked.

The letter was received in evidence and marked Respondent's Exhibit D of this date. The said exhibit reads as follows:

"Original for'd
J. A. C.

Cold Spring on Hudson, N. Y.,
December 21, 1906.

Hon. Martin H. Glynn, State Comptroller-Elect, Albany, N. Y.:

Dear Sir.— I hereby respectfully apply for the appointment as Corporation Tax Commissioner.

I have been for the past twenty years in the heating and ventilating business in the city of New York and have been since its incorporation in 1900, president of the Victor Heating Company, having offices at No. 2295 Broadway, Manhattan, New York city.

I have been identified with the matter of the appraisal of lands for the purposes of the watershed in the Croton for the city of New York as a commissioner of such appraisal on lands in Putnam and Westchester counties.

I have always been a regular Democrat, consistently supporting the candidates of my party.

Very truly yours,
(Signed) JNO. A. CONNOLLY.

The appointment of John A. Connolly of Putnam county to the office of Corporation Tax Commissioner is hereby recommended and requested.

December 21, 1906.

(Signed) ROBERT WINTHROP CHANLER,
Member Democratic State Committee,
25th Senate District
(Counties of Putnam, Dutchess and Columbia.)"

Q. While the matter is in my mind, Mr. Connolly, I will deflect for a moment from the line of cross examination, and ask

you whether, when you were before the Bar Association, you had with you the written contract that you made with the New York World? A. Did I have it with me?

Q. Yes. A. I don't think I did, Mr. Stanchfield.

Q. Well, you were asked before the Bar Association whether you had a contract with the World, were you not? A. Yes.

Q. And did you not testify that you had? A. I believe so.

Q. Didn't you take up there your contract? A. I don't think I did.

Q. They didn't ask you for it? A. They asked me something, if I had a contract, I believe.

Q. Didn't Mr. Chrystie, attorney for the Bar Association, ask you about that contract? A. Oh, I think Mr. Townsend asked me about the question.

Q. Did he ask you about that contract? A. He asked me something about it, yes, sir.

Q. What did he ask you about it? A. Why, he asked me how much money I had got, I think.

Q. Did he ask you whether or no the contract was in writing? A. Why, I told him I had a contract.

Q. In writing? A. Well, you can refresh my memory there. I recall Mr. Townsend bringing up that point distinctly at the afternoon session, and we were going to have an evening meeting, as I recall it.

Q. What I want to know is whether you had this copy of this contract, and showed it to them? A. I don't think they asked for it.

Assemblyman Phillips.— Mr. Chairman, may I ask a question? The witness stated that he told at the time that he was before the Bar Association —

By Assemblyman Phillips:

Q. Did they ask you how much money you were to receive from the New York World? A. They asked how much money, I believe, I got for the story.

Q. Yes. Did you tell them? A. I told them I had a service contract.

Q. You didn't tell them you were receiving any money for the story itself? A. I told them I had refused money for the story.

Q. And you were simply getting it for working for the com-

pany, and not for the story? A. Well, I told them I had a service contract with the New York World.

Q. Do you think you conveyed any wrong impression to the Bar Association? A. I didn't intend to.

Q. But you may have? A. I won't say that.

By Senator McClelland:

Q. You didn't tell them that you got a thousand dollars, did you? A. I did not tell them that I got a thousand dollars?

Q. Yes. A. I do not think I did.

Assemblyman Gibbs.—What is the answer, Mr. Witness?

Assemblyman Cuvillier.— He states that he did not.

Assemblyman Goldberg.— I would like to know from those representing the Bar Association of the City of New York whether they knew of this written agreement between Mr. Connolly and the World before they presented these facts to the Governor of the State of New York.

Mr. Guthrie.— I understand that no one of the members of the Grievance Committee knew that he had a written contract. I was not present at the sessions of the Grievance Committee and I don't recall exactly. We can find in the record what the witness swore to.

I think I want to state this. When I was brought into the matter a week ago I asked Mr. Connolly what his arrangement was, if he had any, with the World, that was referred to in the testimony I just read. He said he had a service contract. I then asked him if that had been shown to the Committee and he said no, that that was private business. I said that I wanted to see that contract and that he must bring that contract with him here so that it might be proved in this matter.

Assemblyman Levy.—As a matter of fact you were brought into this situation after the report of the Association had been made to the Governor.

Mr. Guthrie.—After this committee was appointed?

Assemblyman Cuvillier.— Mr. Guthrie, may I interrupt you? Since this investigation started yesterday did Mr. Connolly inform you of this contract by which he was to be paid a thousand dollars?

Mr. Guthrie.— I read the contract four or five days ago and then told him to take the contract with him to Albany and have it here.

The Chairman.— That is pretty clear now.

Assemblyman Phillips.— The situation now is different.

Mr. Guthrie.—And you will remember that my senior, Judge Kellogg, practically offered to open that question on his direct examination.

Assemblyman Levy.—Which he did.

Mr. Guthrie.—When he referred to the fact that the witness was in the employ of the World. Then Judge Stanchfield asked if the contract was in writing and the answer was that it was.

During the course of the direct examination Judge Stanchfield asked if he could see it and asked the witness where it was, and the witness said it was at the hotel. It was brought here at the recess and handed to Judge Stanchfield.

Assemblyman Levy.— That is so.

Assemblyman Goldberg.— May I inquire then of Mr. Chrystie who is more familiar with these proceedings, as to whether he knew, or if any other member of the Grievance Committee knew of this written agreement between Mr. Connolly and the World before this matter was presented to the Governor?

Mr. Chrystie.— Personally I did not see the contract until this afternoon, but I do know that he was asked some questions about his employment by the World, before the Committee. I am not certain I was present while all the questioning was done but I do recollect that Connolly answered, I am employed by the World. I have a service contract with it. I do not think he said the contract was in writing at that time.

Senator McClelland.— Did he say he had received a thousand dollars on that contract?

Mr. Chrystie.— Not in my hearing.

Senator McClelland.—When did you first hear it?

Mr. Chrystie.— I didn't know anything about it until he testified here, except I had talked to Mr. Guthrie about the contract, but I did not know the terms.

Assemblyman Cuvillier.—When the Bar Association submitted the charges, did you or any member of the Committee, the Grievance Committee of the Bar Association know of the existence of a contract between Connolly and the World?

Mr. Chrystie.— They knew we had a contract. I do not believe they knew anything about the terms of that contract. In fact, I am certain of it.

Assemblyman Cuvillier.—Was any question asked by a member of the Committee as to the terms of the contract?

Mr. Chrystie.— I do not think so. Not in my hearing. The minutes are here and the questions asked are in the minutes.

Assemblyman Cuvillier.— Did your Committee take a preliminary examination of Connolly before you put him on the stand?

Mr. Chrystie.— No, there was no preliminary examination by the Committee.

Mr. Guthrie.— This is a copy of the stenographer's minutes and I think this is all there is. I will read to you the questions.

Mr. Kresel.—What page is that?

Mr. Guthrie.— Page 87 of the printed record before the Bar Association.

"Q. You have received money from the Press for giving this information, have you not? A. I have a service contract with the New York World.

"Q. You have a service contract with the New York World? A. Yes, at a stated salary, and I refused money for the story.

"Q. And when did you enter into this contract with the New York World? A. On January 3, 1913."

According to my recollection that is all that appears in the printed minutes, that I have seen.

Senator Foley.— May I ask a question of the witness?

By Senator Foley:

Q. Did you make any preliminary statement to anybody connected with the Bar Association before you went on the stand before the Grievance Committee? A. I did not get all of the question, Mr. Foley. Did I make any preliminary —

Q. Did you consult with anybody connected with the Bar Association before you went on the stand before the Grievance Committee to explain the facts in the case to anybody before you were formally examined? A. Why no. I had certain talk about the evidence in the exhibits that Mr. Chrystie wanted.

Q. You explained the nature of the facts that you were to testify to before you went on the stand formally, did you not? A. Was I asked questions?

Q. Did you explain to anybody connected with the Bar Association before you went on the stand formally? A. Explain the contract?

Q. No, explain the facts of this whole matter; go over the facts.

Assemblyman Cuvillier.— Did you talk with anybody from the Bar Association about this case before you went on the stand?

The Witness.— I talked with Mr. Chrystie.

Q. You talked with Mr. Chrystie? A. Yes.

Q. You say you consulted with Mr. Chrystie? A. I consulted with Mr. Chrystie.

(Witness leaves seat and goes over to a position near Senator Foley.)

Q. And did you make any statement whatever about your service?

Senator McClelland.— I submit that the witness should take a seat. I think it will be best for all if we allow the counsel to proceed with the cross-examination.

Assemblyman Phillips.— There is one thing I wish to ask before we get through.

Senator Foley.— I have not finished my question.

Q. Did you make a statement about your service with the New York World to Mr. Chrystie before your formal examination, before you went on the stand before the Grievance Committee? A. I do not believe that I told Mr. Chrystie deliberately that I was employed by the New York World.

Q. Did he ask you if you were? A. I do not recall that he did.

Senator Foley.— That is all.

By Mr. Phillips:

Q. Mr. Connolly, since you got this contract with the New York World have you done any work for the New York World other than unfolding this story and developing it? A. Well, I have not had any time except — that is about all I have done.

Q. This is all you have done for them? A. Yes, sir.

Q. How much money have you received from the New York World under your contract? A. I have received at the rate of $57.70 a week.

Q. So you were not conveying full information to the Bar Association, were you, when you told them that you had not received — that you had received nothing for the story? A. There was $1,000 down on the signing of the contract.

Q. You tried to convey the impression to them that you were working under a service contract rather than selling a story to them? A. I am working under a service contract, and I am working under that contract for them.

Q. In this hearing you have stated more fully and fairly all of the facts than you stated to the Bar Association at their investigation? A. Well, one was an ex parte investigation, all one-sided.

Q. That is all one-sided, that one was? A. It was one-sided.

Q. And so you did not give the Bar Association a full and fair statement of the case, did you? A. You say I didn't?

Q. You say — you don't think you did give them a full and fair statement, that is to the Bar Association? A. Some of them found fault with me because of my redundancy.

Q. You think it was an ex parte proceeding? A. It had to be an ex parte proceeding, as I understand, because the other side would not appear.

The Chairman.— Is that all?

Assemblyman Phillips.— Yes.

By Mr. Stanchfield:

Q. Running back, Mr. Connolly, to this triangular conversation at Cruikshank's office in the spring of 1906, I asked you and you said that Cohalan spoke of your demand for this money as being blackmail. Now did he tell you at that time that you being on this Fusion committee, you were trying to take advantage of his political situation and force him to surrender this money, or in substance that? A. Did he say that to me?

Q. Did he say that in that conference? A. I don't recall that he said anything like that.

Q. Did he say that in substance? A. I don't think he did.

Q. Was Cohalan then the Grand Sachem of Tammany Hall? A. He was the Grand Sachem of Tammany Society.

Q. Tammany Society, and you knew that too? A. I knew that.

Q. Didn't you tell him when you met him at that conference that you knew of the fact that he was a Grand Sachem and that you had him where you wanted him? A. No.

Q. Or in substance that? A. No.

Q. And you knew perfectly well he was in a position that he could not afford to fight a litigation of that kind at that time? A. He was delaying a litigation that had been started for some time.

Q. You were trying to crowd it? A. Was I trying to crowd it?

Q. Yes. A. After I began suit I was certainly urging my lawyers for a settlement.

Q. You found fault with your lawyers for giving him time to answer, didn't you? A. Well, he had —

Q. Answer me, you found fault with them? A. I found fault for some of the adjournments; I believe I did.

Q. And was not that so that you expected or hoped to get a disposition of it before the fall election? A. To get a disposition of it before the fall election?

Q. Yes. A. Why, I wanted the matter settled.

Q. You wanted it settled particularly before the election, didn't you? A. The election was a long time off.

Q. You recollect this sentence that was read in one of Mr. Cruikshank's letters, I think addressed to Mr. Cohalan: "I think for many reasons the matter had better be closed up as soon as possible"? A. I recall that sentence.

Q. Now, was not that because of the political situation at the time? A. I don't know what was in Mr. Cruikshank's mind when he wrote that letter.

Q. No. But in your mind wasn't it the political situation that made you trying to force him to answer or to settle? A. The political situation?

Q. Yes. A. I was not looking at it from that viewpoint at all; I was looking at it in connection with my regular business.

Q. Do you know when you went on the Fusion Committee

exactly? A. I was trying to think when you asked me whether it was after May 7th,—

Q. Wasn't it May 16th? A. Well, if it was May 16th I had no idea I was going on the Fusion Committee.

Q. But after you went on May 16th you continued to serve during the campaign? A. Yes.

Q. Now this money was paid to you in the summer of 1909, wasn't it? A. Yes, sir.

Q. What date? A. May 27th.

Q. Paid to Mr. Cruikshank? A. I believe — yes, it was paid to Mr. Cruikshank.

Q. And I think you stated that he sent you a check for a portion of it, do you recollect now? A. He did not send it to me. He handed it to me.

Q. Now, you recollect for how much? A. $3,440.55.

Q. His fee for his service in the matter being $500? A. Yes, sir.

Q. Did you go to Mr. Cruikshank soon thereafter and borrow that $500? A. Borrow that $500?

Q. Borrow $500? A. Mr. —

Q. Did you go to Mr. Cruikshank soon thereafter and borrow $500, within a month? A. I don't recall the date.

Q. Well, did you borrow that? A. I borrowed $500, and I asked for $500 from Mr. Cruikshank.

Q. Well, you borrowed it, didn't you? A. Well, yes, I borrowed it.

Q. Have you paid him? A. Well, he has told me —

Q. Have you paid it? A. I have not paid it; he told me not to pay it.

Q. When did he tell you not to pay it? A. Oh, sometime in the fall, I believe.

Q. After he told you not to pay it didn't you touch him up for some more, didn't you? A. I borrowed some more from him after my business went to pieces.

Q. Did you pay that back? A. No.

Q. Did he tell you not to pay that second instalment? A. No, I consider that I owe that to him.

Q. Now, Mr. Connolly, there was no communication between you and Cohalan after that until along the fore part of this year? A. No communication after that?

Q. Yes. A. After this episode of 1909?

Q. Yes. A. Why, I met Mr. Cohalan.

Q. You had no — you and he were not on friendly terms, were you? A. No.

Q. And you commenced in a variety of ways to make peace with him, didn't you? A. Why, I went to Mr. Murphy and told him all the circumstances of my failure in business.

Q. Now will you answer my question? A. I thought I was answering it. You said a variety of ways and I am telling you one of them.

Q. You tried to make your peace with Cohalan and, to a question of that sort, you answer me saying you went to Mr. Murphy and told him about your business troubles; do you think that is an answer to my question? A. You said "A variety of ways" and I called upon Mr. Murphy as one.

Q. The question is, I say, didn't you try to make peace with Cohalan? A. I tried to make peace with Cohalan?

Q. I say, didn't you? A. I did see Mr. Murphy.

Q. Mr. Connolly, when did you again, after you got this money back, how soon did you begin to try to make peace with him? A. Not until March, 1910.

Q. March, 1910. That was, or that is, less than a year after you got this money back that you paid him under a contract that you had offered him, wasn't it within a year? A. Well, let us see: May, 1909 — it was less than a year.

Q. Well, less than a year, March, 1910 — did you see Cohalan personally? A. I did not see Cohalan personally at all.

Q. When did you see Cohalan personally? A. On the 1st day of November.

Q. Where? A. At his office, No. 2 Rector street.

Q. Did not have any conversation with him at that time? A. I did.

Q. What was it? A. Why, he asked me about what happened to the business and I have stated it here under direct examination.

Q. You needn't repeat it. When did you see him again? A. I saw him after the receipt of Mr. Murphy's letter from Hot Springs, and then I think I saw him in December; I may have seen him another time before the first of the year.

Q. When did you give him that note, on what date? A. When did I give him the note?

Q. Yes. A. I didn't give the note to him, I gave the note to Mr. Cruikshank.

Q. When did you give the note to Cruikshank to be delivered to him? A. On April 5, 1911.

Q. Between November, 1910, and May, 1911, you had seen Cohalan upon several occasions? A. Between — I don't get those dates.

Q. Between November, 1910, and May, 1911, during that six months? A. Between May, 1910 —

Q. Between November, 1910, and May, 1911 — in the fall and winter of 1911. A. I am tired, Mr. Stanchfield. Let me have a drink of water. What is that question?

Q. (Repeated as follows): "Between November, 1910, and May, 1911, you had seen Cohalan upon several occasions." A. Oh, yes, I saw a great deal of him.

Q. Now in addition to seeing Cohalan personally did you address communications to him? A. Oh, yes, sir.

Q. You say you are tired about this questioning. You haven't done anything since the 13th of January but work on this story? A. I have not done anything, you say?

Q. Yes, that is all you have done, isn't it? You have told me so three or four times under oath. A. I will tell it to you again.

Q. Is it true again? A. It is.

Q. Now I will ask you if you don't remember whether you wrote Cohalan during that period between November, 1910, and May, 1911? A. November, 1910, and May, 1911? Yes, I wrote Mr. Cohalan letters.

Q. Did you write him this letter dated December 21, 1910, if you can tell by the signature (handing paper to witness)? A. Yes, I wrote that letter, that is my writing.

Assemblyman Levy.— Do you offer it in evidence?

Mr. Stanchfield.— Yes.

(Same marked Respondent's Exhibit E.)

Q. Now this letter is dated December 21, 1910. It was a little over a year before that you had compelled Cohalan to pay back this money and had quarreled with him to the extent that he had accused you of taking blackmail from him, you recollect that, don't you? I will read you this letter:

"New York, *December* 21, 1910.

"My Dear Dan.— My sole object in seeking our last interview was to warn you of an implacable enemy. My motive in patching up a truce cannot be misconstrued. I do not propose

to have him harm you, if diplomacy can avert it. My only thought in writing you now is not to take up your time by an appointment and refers only to myself. I am confident in a restored friendship which I trust will be more valued as time advances." A. I will help you, Mr. Stanchfield.

Q. "My resources financially are down to absolute zero centigrade." Zero centigrade was intended to be stronger than zero fahrenheit when you wrote that? "However this is not a cheerful subject to dwell upon. I feel Mr. Murphy intends to do something for me, but realize fully he is beset hourly by countless office seekers and I can be forgotten unintentionally. I would therefore ask you in this season of peace and good will to help matters along. Expressing my thanks in advance for your good offices and yourself and family a Merry Christmas and fruitful New Year, I am

Very truly yours,

JOHN A. CONNOLLY."

Q. Who was that implacable enemy that you had in mind when you wrote that letter? A. That I had in mind when I wrote that letter?

Q. Yes. A. P. J. McNulty.

Q. P. J. McNulty. He was an implacable enemy of Cohalan's, wasn't he? A. I would call him that.

Q. And when Cohalan ran for Judge of the Supreme Court in 1911 it was that same P. J. McNulty, or did they have another name for him, they did, didn't they? A. Mr. Jerome called him something today I never heard before.

Q. What was that? A. Let Mr. Jerome tell you.

Q. Hadn't you heard it? A. I heard it, yes.

Q. What was it? A. Will I tell him, Mr. Jerome?

Mr. Jerome.— Sure.

A. (Continuing). Well, I don't like to tell it. I will tell it to you confidentially.

Q. Well I am not concerned about it? A. Neither am I.

Q. He was the same P. J. McNulty whose name was signed in connection with a committee to a petition and which was advertised in all the political papers in New York before election? A. Oh, I don't know whether it was advertised or not, I think I saw a piece in the New York American.

Q. The New York American was opposing Cohalan in 1911, wasn't it? A. I think it was.

Q. Very bitterly? A. Yes, sir.

Q. And you were earnestly supporting Cohalan? A. Yes, sir.

Q. And it was with this same P. J. McNulty and L. J. O'Reilly of the New York American that you were having these conferences, were you not, at that very time? A. Yes, put it that way if you like.

Q. Of course you were trying to help Cohalan? A. I certainly was trying to help him because they could not do anything without me, that is on the story; they were determined to publish the story and I was only determined they would not if you call that diplomacy.

Q. It was also the same P. J. McNulty,— I had forgotten that, — that you had this conference with at the Harvard Club with Ralph Pulitzer and Mr. Spurgeon? A. Yes, sir.

Q. The same man? A. Yes, sir.

Q. I don't suppose he had become any more friendly to Cohalan as time had gone on, had he? A. Well, you can ask him that, Mr. Stanchfield.

Q. I think I will if he is called here.

Q. When the arrangement was made with Mr. Cohalan through the intermediation of Cruikshank in the spring of 1911 to give this note for $4,000, you had talked with Cohalan frequently about giving that note you told us? A. He brought up the matter for the first time on March 22nd as I recall it.

Q. I say you had several talks on the subject? A. I had two or three.

Q. And in every talk that you had with Cohalan on the subject of that note he kept insisting that this money that you had taken from him was standing between you, didn't he? A. He used that term, I believe, substantially.

Q. He used it every time the subject came up, didn't he? A. He hadn't used it between November 1st and March 22nd.

Q. Well, I say every time the subject of giving the note came up between you and him he was insisting that the note be given because of the — A. I was in a receptive mood.

Q. I am not talking about the mood you were in. You wanted to make peace with Cohalan at any price, didn't you? A. Oh, I wanted to get a position, Mr. Stanchfield.

Q. You wanted to what? A. Get a position. I was out of employment, and I was hard up.

Q. If you are tired, Mr. Connolly, I am not inclined to be severe nor cruel, and if you desire to go over until to-morrow? A. You have not been severe or cruel, but I find myself dozing off. If it was a ventilating engineer — I will say some Senators have complained about the acoustic properties, and I know I complained about the ventilating properties.

The Chairman.—You are right about that.

Mr. Stanchfield.— I will finish in a few minutes in the morning. Can't they put some other witness on the stand, and go on, as far as I am concerned.

The Witness.— Mr. Warren wanted to get away.

Mr. Stanchfield.—As far as I am concerned, it is a matter of indifference.

The Chairman.—Would you rather wait until morning?

Mr. Stanchfield.— He is half asleep. I would rather —

Assemblyman Levy.—What do you say?

The Witness.—Why, if Mr. Stanchfield would like to finish with me —

The Chairman.—Well, if you are tired —

The Witness.— I am tired. We need some more air in here.

The Chairman.— Mr. Connolly, you can wait until morning.

Mr. Jerome.—Will you wait one moment?

The Chairman.—Yes.

Assemblyman Levy.—Would you rather come back in the morning?

The Witness.— It is immaterial.

Assemblyman Levy.—And let Warren go on if you are tired.

Mr. Kresel.— Just two or three questions.

By Mr. Stanchfield:

Q. Mr. Connolly, going back to the proceedings before the Bar Association, there seems to be confusion, even among counsel

on the side that I am representing, as to just what has been said. Isn't it a fact — I want your attention, and I want you to keep awake for a few minutes. Isn't it a fact that you saw Mr. Chrystie in the first instance before you went before the Grievance Committee? A. I saw Mr. Chrystie, yes.

Q. You had a conference with him, didn't you? A. Well —

Q. You simply didn't go in to see him, you talked with him, didn't you? A. He wanted all the documentary evidence I had.

Q. On this Cohalan matter? A. Yes.

Q. Didn't he ask you for the story outside of the documentary evidence? A. Ask me for the story outside of the documentary evidence?

Q. Yes. A. Why he asked for all books that would enlighten him upon the subject.

Q. What else? A. Well, that is all, papers and books.

Q. And didn't he ask you for your parole story, for your own version of what had occurred between you and Cohalan? A. Parole, you mean spoken?

Q. Oral, yes, spoken story? A. He asked for the book containing the reports on different things.

Q. Now, you mean by that report, the report that had been prepared by you and this man Scallon? A. Yes.

Q. Scallon? A. Scallon, yes, sir.

Q. And you furnished it to Mr. Chrystie? A. I furnished it to Mr. Chrystie, or Mr. Scallon did. Now, I don't recall which.

Q. Well, now, I will get at that in a moment. That was the first time you saw Mr. Chrystie, wasn't it? A. It was — I never saw Mr. Chrystie till this matter came up.

Q. When he asked you for these documents, books, records, papers, bearing on this Cohalan matter, you first saw him? A. Yes, sir.

Q. Now, where was that that you saw him? A. In his office on West 43d street.

Q. That is the Bar Association? A. Yes, but it is in the adjoining building.

Q. I understand, but it is at the Bar Association Building rooms. Now, did you go to see him upon more than one occasion? A. Oh, I think I saw him on three or four occasions.

Q. Now, those three or four occasions were before there was any hearing before the Grievance Committee? A. Yes, sir.

Q. Now, on the three or four or more occasions, if there were

more, when you went to Mr. Chrystie, you had him send for or you took with you other witnesses, didn't you? A. I took with me other witnesses?

Q. Yes. A. No, I believe I always went alone.

Q. Did other people come there when you were there? A. I don't recall that they did. I recall going up in a taxicab one day with the — with the box, with the cash box of books and papers and stub checks, and I had an employee of the World, an office boy, with me.

Q. Well, didn't you see Mr. O'Hanlon there at one time? A. I never saw Mr. O'Hanlon until he —

Q. (Interrupting) Came before the Grievance Committee? A. Came before the Grievance Committee; I certainly never saw him before that.

Q. Was Mr. Cruikshank with you at any time before Chrystie? A. No.

Q. Now, are you perfectly sure of that? A. Was Mr. —

Q. (Interrupting) Was Mr. Cruikshank with you before Chrystie at any of these interviews you are talking about? A. Why no; no, Mr. Stanchfield, no.

Q. You say you were always alone upon these three or four occasions? A. As I recall it, yes, sir.

Q. Now, didn't you tell Chrystie — Mr. Chrystie, pardon me — Mr. Chrystie, in any of those interviews anything about the written contract that you had with the World when he was asking you for all papers of all descriptions? Didn't you offer to furnish him that, or tell him of the existence of that paper? A. Why, I don't think anything was said about the contract until Mr. Townsend brought it out, as I have testified here to-night.

Q. That was when you were before the Grievance Committee as a committee? A. Yes.

Q. Before you got before the Committee, I am asking you what took place before Mr. Chrystie, or in the presence of Mr. Chrystie? A. I don't believe Mr. Chrystie asked me for the contract. I know I was very careful to take receipts for everything that I gave Mr. Chrystie.

Q. How came you to go to Mr. Chrystie? A. How came —

Q. (Interrupting) You didn't know Mr. Chrystie, did you? A. No.

Q. Well, how did you happen to go to him? A. Why, Mr. Scallon must have told me that he wanted to see me.

Q. Well, Mr. Scallon is the representative of the New York World ? A. The same as I am.

Q. You really call yourself seriously a representative of the New York World, or do you say that in a Pickwickian sense? A. Well, I am a representative of the New York World. I am employed by them, the same as Mr. Scallon is.

Q. You are to get five per cent of the net rents of the unoccupied space in the Pulitzer building? A. I hope to have you as one of the tenants sometime.

Q. You will never get me. In rentals? A. That is in the contract.

Q. Well, you haven't rented anything yet ? A. I haven't had time.

Q. Your entire time, your exclusive time, you have said time and again here, has been devoted to this story? A. Yes, sir.

Q. Now, did Scallon have a copy of your contract? A. I don't think Mr. Scallon —

Q. (Interrupting.) He knew all about it? A. I don't think he knew anything about the contract.

Q. Well, you handed me a triplicate. How many copies of that were there? A. How many copies?

Q. Yes. A. There was only the original — there was only two copies on January 3d.

Q. Well, the one you gave me was marked "Triplicate." A. Yes.

Q. Who made that? A. The lady stenographer in Mr. White's office. I requested Mr. White to have a copy made. I am just trying to think of the urgency of it.

Q. That is what I am getting at. Why did you have that copy made? You say the urgency of it. Who wanted it? A. Oh, Mr. William D. Guthrie.

Q. Mr. Guthrie? A. Yes.

Q. And that, as Mr. Guthrie stated, was four or five days ago? A. Yes; six or seven days ago.

Q. Six or seven days ago? A. He wanted to see the contract, and he requested it in his very hurried manner, and he told me he wanted it at a certain time, and I went — I went down to the office and told — requested Mr. White if he would kindly make a copy of it.

Q. Had you ever seen Mr. Guthrie before? A. Yes, Mr.

Guthrie was pointed out to me at the beginning of this year, by another lawyer, on Wall street.

Q. In connection with the proceedings before the Bar Association, had you come in contact with Mr. Guthrie till you heard from him that he wanted that contract at once, or a copy of it?

Mr. Guthrie.— Ask him if he had ever spoken to Mr. Guthrie.

Mr. Stanchfield.— That is what I am trying to find out.

Q. Had you spoken to Mr. Guthrie? A. I don't believe I spoke to Mr. Guthrie till last — a week ago last Saturday, I think it was the 4th of —

Q. (Interrupting.) Did he call you on the telephone, or did you call him about this contract? A. Why, I met him in the Bar Association building, as I recall it.

Mr. Guthrie.— Last Saturday?

Q. When was that, Mr. Connolly? A. Well, I am mixed on the 4th of July. Friday was the 4th. I think it was on the 2nd or 3rd of July.

Q. Was there anything said between you and him about this contract at that time? A. He told me that he wanted it.

Q. How did Mr. Guthrie know that this contract was a written contract? A. How did Mr. Guthrie —

Q. (Interrupting.) Yes. You hadn't told him, had you? A. Why, he must have read in the evidence that I had a service contract.

Q. Did you say in the evidence anything about its being in writing? A. I said I had a service contract with the New York World.

Q. I know it. Did you say that it was in writing? A. I did not —

Q. (Interrupting.) You spoke of the same thing here yesterday to Judge Kellogg, that you had a service contract. You didn't say anything about its being in writing till I asked you? A. I promptly told you that it was, that I had a written contract.

Q. To whom did you declare that? A. To you, when you asked for it.

Q. Had you ever declared it to anybody else? A. Why, nobody ever did ask me — the Bar Association —

Q. (Interrupting.) Well, did you state to Mr. Chrystie, or to anybody connected with the Bar Association Committee that it was a written contract? A. Mr. Guthrie —

Q. (Interrupting.) No, before Mr. Guthrie gets into it. I understand all about that. Before you said Mr. Guthrie had any talk with you on the subject of getting a copy of it? A. I remember Mr. Townsend bringing that matter up. He said it will be necessary, Mr. Connolly, to find out how much money you got from the New York World.

Q. Well, now, what did you say then to that? A. What did I say in reply?

Q. Yes. A. Why, I said that I had refused money for the story, and that I had a service contract with the New York World. And then the next time it came up, Mr. Guthrie asked me if I had a contract with the New York World. I said, yes, with the Press Publishing Company. And he said, Mr. Connolly, I want to see that contract.

Q. Well, now, when Mr. Townsend said it would be necessary to find out how much money you were getting from the New York World, did you say anything to him about the fact that you were getting the service contract $10,000, or were to get it? A. No, I don't think I did.

Q. Did you say anything about the fact — A. (Interrupting.) All my testimony is there, Mr. Stanchfield.

Q. Did you say anything to him about the fact that you had been paid $1,000 in cash? A. I don't — I don't think I did.

Q. Do you recollect whether Chrystie sent direct for you, or whether Scallon told you to go to Chrystie? A. I think Mr. Scallon, if my recollection serves me accurately, that Mr. Chrystie would like to see me. Now that is my recollection, Mr. Stanchfield.

Q. Did he fix the time and the place? A. Why, I believe he did.

Q. Didn't Scallon tell you to take up certain papers, records and documents with you when you went to see him? A. No.

Q. That was afterward? A. Mr. Chrystie, I believe Mr. Stanchfield, told me what he wanted.

Q. Told you? A. Yes.

Mr. Stanchfield.— That is all. You can call Mr. Warren now.

Mr. Jerome.— Just ask him one question, whether this White he speaks of was Ike White.

The Witness.— No, his name was —

Mr. Stanchfield.—You ask him.

Mr. Jerome.— His name was what?

The Witness.— Florence D. White.

Mr. Guthrie.— I would like to ask Mr. Connolly a question.

By Mr. Guthrie:

Q. Mr. Connolly, is it not a fact that when I demanded the copy of the contract that you had with the World or the Press Publishing Company, you at first said that that was private business? A. I think I made that remark, Mr. Guthrie.

Q. Did I not say that we insisted upon your getting a copy and showing it to me? A. You must have said so, because I know I went right down to the World office and saw Mr. F. D. White.

Q. And you told Mr. White what I had told you? A. I told him —

Q. That we must have that contract? A. Yes, sir.

Q. And did I not tell you that you must produce that contract here? A. Yes, sir.

Mr. Stanchfield.— That is all to-night, Mr. Connolly.

(Witness excused).

Assemblyman Cuvillier.— Mr. Stanchfield, are you going to recall him to-morrow?

Mr. Stanchfield.—Yes, he is coming back in the morning.

Lyman D. Warren was called as a witness, and being duly sworn, testified as follows:

Direct Examination, by Mr. Guthrie:

Q. You are a member of the Bar, practicing in the city of New York? A. Yes, sir.

Q. Where is your office? A. 261 Broadway.

Q. And how long have you been practicing law? A. Over 43 years.

Q. In May, 1913, did you write a letter to Judge Cohalan in reference to a note given by John A. Connolly for $4,000? A. I did.

Q. And is the letter printed upon page 14 of the proceedings of this Committee a true copy of that letter? A. Yes, sir.

Q. What did you do with that letter? A. I put it in a sealed envelope and sent it by one of my assistants to Judge Cohalan.

Q. That was May 19th of this year? A. No, sir.

Q. What date was it? A. It was written on the evening of May 19th, and sent to Justice Cohalan the next morning.

Q. What answer, if any, did you receive from Justice Cohalan to that letter? A. On Thursday on my return from New York I received a telephone from Justice Cohalan asking me if it would be convenient for me to call at his chambers, and I made an appointment to meet him between twelve and one, and I went to his office and met him.

Q. Will you please state fully what occurred at that conference? A. I went into the office and shook hands with the Judge, took a seat at his desk, and he stated to me, "Mr. Warren, I received your letter. It is needless for me to say to you that the statements indicated by the contents of that letter are untrue. I understand that Mr. Connolly is getting on his feet. I do not place any value upon that note. I am perfectly willing to give it to him or to give it to you."

He took it out of his pocket, out of a pocketbook, and asked me if I would give him a receipt for it. I told him I would. I drew a receipt for it, and put it in my pocket. I sat there and visited with the Judge socially for probably five or ten minutes and got up and left.

Q. Did you receive anything else from him at that time besides the note? A. There was a paper attached to it, an affidavit.

Q. An affidavit sworn to by Mr. Connolly on the 5th of April, 1911? A. It so appeared to be, yes, sir.

Q. Will you please look at the papers now shown you, being Exhibits 42 and 43 in this proceeding, and state whether 42 is the note and Exhibit 43 the affidavit which Judge Cohalan handed you at that interview? A. Yes, sir.

Q. And then what did you do with them? A. I took them to my office, and I delivered them to Mr. John A Connolly.

Q. Have you stated all that you recalled that passed between you and Judge Cohalan? A. No.

Q. In respect to this matter? A. No. I do recall that Judge Cohalan, in addition to what I have stated, that it would answer no good purpose for him to discuss the details of the differences between himself and Mr. Connolly.

Q. Did you then proceed to discuss them? A. No, sir.

Q. Or to leave the subject alone? A. We dropped the subject, and I was —

Q. Proceeded to social intercourse? A. And I was talking about social matters with the Judge.

Mr. Guthrie.— That is all.

Cross examination by Mr. Stanchfield:

Q. Do you recall, Mr. Warren, whether in that conversation with Judge Cohalan when he made the observation, as you have expressed it, that it would serve no good purpose to discuss the question of the quarrel between himself and Mr. Connolly, that Mr. Cruikshank was familiar with the circumstances attending the giving of the note? A. Yes, sir.

Q. You do recall that? A. Yes, sir.

Q. I desire to read you a statement from Judge Cohalan's answer that was printed in the newspapers recently.

(Reading.) "I knew of Mr. Warren as a member of the Bar. I sent for him. I told him that Connolly's note meant nothing to me, so far as money was concerned. I told him that the statements in his letter to me imputed to Connolly were utterly false. I told him that the note and the affidavit had been held by me simply as assurance that Connolly's statements were false. Although the note was a four months' note and long since past due, I had never made any demand for its payment, never made and never intended to make the slightest use of it, and never regarded it as of any pecuniary value. I had taken it with its accompanying affidavit, merely as a concrete admission by Connolly that his statements of 1909 were false. I told Mr. Warren that there was never a time after I had received the note, when I would not have given it back to Connolly." I ask you to re-

fresh your recollection of that, whether or not in substance Judge Cohalan stated that to you? A. He did, a great part of it, in substance. Some of it I have no recollection of. He did say that the note was of no value. He stated he was perfectly willing to give it to Connolly or to give it to me if I would give him a receipt for it.

Q. When Mr. Connolly called upon you in reference to this matter, did he show you, for the purpose of correction or advising him upon the subject, this copy of his contract with the New York World that has been read in evidence here? A. At what time?

Q. When he came to retain you in this matter, or during the time while you were acting for him? A. Some time in the month of December, Mr. Connolly came in my office with a draft of an agreement between him and the New York Press.

Q. Press Publishing Company? A. The Press Publishing Company, undated. It looked like a carbon copy of a typewritten agreement. He showed it to me, and wanted to know if that agreement was in legal form, and it struck me that it had been drawn by a layman. It provided that — the contract stated that Mr. Connolly had information that was valuable for the public welfare, and on delivery of it to the New York World, he would be hired for a period of three years at $3,000 a year. I made lead pencil interlineations on that agreement, putting the verbiage in proper form, and handed it back to him. And that is the last I ever saw or heard of it.

Q. About when was that, what time? A. My recollection is it was the last week in December, because I did not get in my office after an illness until the 27th of December.

Q. Your recollection is that it is after or before Christmas? A. After.

Mr. Stanchfield.— That is all.

(The witness excused.)

The Chairman.— Anything more, Mr. Guthrie?

Mr. Guthrie.— No.

The Chairman.— That is all. Next witness.

Mr. Guthrie.— Mr. Leary.

The Chairman.— Is Mr. Leary here?

(No response.)

Mr. Chrystie.— He was here all day. He will be here in the morning.

The Chairman.— Anything else, Mr. Guthrie?

Mr. Guthrie.— I have a stipulation here I will offer now and then will ask that we adjourn until to-morrow morning. We had here yesterday an officer of one of the banks of the city of New York and in order to avoid his staying here we entered into the following stipulation with respondent's counsel:

"It is stipulated that if Mr. James L. Miller, of the city of New York, were called as a witness in the above proceeding, he would testify as follows:

1. That he is, and for several years last past has been, the assistant cashier of the Metropolitan Bank, which is now the successor of the Shoe and Leather Bank, which in turn was the successor of the National Shoe and Leather Bank as the latter existed in 1906.

2. That among the deposit slips on file in such bank showing deposits by Daniel F. Cohalan are two slips dated respectively September 19, 1906, and November 10, 1906, both in the handwriting of the depositor, D. F. Cohalan; the former showing a deposit of bills on September 19th to the amount of $750, and the latter showing a deposit in bills on November 10, 1906, of $500.

3. That the blue pencil check upon each of said slips indicates that the deposit on that day consisted of cash.

4. That the transcript of the account produced by Mr. Miller covering the period beginning January, 1903, and ending September 1, 1908, is a correct transcript and may be offered with the same force and effect as if the books of the bank were produced.

5. That the items in the columns headed debit represent withdrawals from said account upon the dates set opposite the same, and that the items in the column headed credits represent deposits made in the said account upon the dates set opposite such items.

6. That the deposit slips representing deposits made by Daniel F. Cohalan prior to the 1st day of September, 1905, have been destroyed by the bank in the regular course of business.

7. That the other deposit slips produced by said Miller were produced by him from the files of the bank.

The deposit slips and transcript are left with Mr. Kresel, 149 slips.

Mr. Guthrie.— I offer that stipulation in evidence and the two accompanying deposit slips.

Assemblyman Levy.— Are you offering it as an exhibit?

Mr. Guthrie.— Yes.

Mr. Kresel.— There is no necessity of having the stipulation as an exhibit.

Assemblyman Levy.—You have read the stipulation into the record.

Mr. Guthrie.— It need not be marked. Then, give two exhibit numbers to the deposit slips.

Mr. Stanchfield.— There are other deposit slips to go in too, at the same time.

Mr. Guthrie.— Yes.

Mr. Stanchfield.— These two deposit slips of November 10, 1906, and September 19, 1906, are about the last two payments of $500 in bills made by Connolly to Cohalan, and were deposited in the bank.

Assemblyman Goldberg.— The first payment is —

Assemblyman Levy.— You have no objection to their going in evidence, have you?

Mr. Stanchfield.— None at all. One is September 19th and the other November 10th. The first payment I think was September 17th, and the deposit is in bills, $750, two days later.

The slips were received in evidence and marked Complainant's Exhibits 47 and 48, respectively, of this date, bearing date September 19, 1906, and November 10, 1906.

Mr. Kresel.— The respondent offers in evidence, in connection with these two deposit slips, the following deposit slips:

August 3rd, 1906, showing a deposit in bills, $1,000.

Assemblyman Levy.— Hadn't he better mark them as you offer them?

Mr. Kresel.— I am going to offer them as one exhibit.

Assemblyman Levy.— All right.

Mr. Kresel.— April 11, 1906, deposit bills, $500; May 9, 1906, bills, $100; May 16, 1906, bills, $1,000; May 22, 1906, bills, $53; May 25, 1906, bills, $338; July 17, 1906, bills, $800; September 10, 1906, bills, $264; January 7, 1907, bills, $1,400; January 16, 1907, bills, $100; January 27, 1907, bills, $80; February 21, 1907, bills, $450; February 28, 1907, bills, $200; March 4, 1907, bills, $823; April 1, 1907, bills, $100; April 19, 1907, bills, $500; May 28, 1907, bills, $550; July 1, 1907, bills, $240; September 5, 1905, bills, $1,000; November 8, 1905, bills, $450; October 10, 1905, bills, $250; December 27, 1905, bills, $300. I offer these as one exhibit.

Mr. Kellogg.— There is no objection to them, if they are offered in that form, but it should also appear upon the record that those same slips contain also deposits of checks of various amounts?

Mr. Kresel.— Yes.

Mr. Kellogg.— And also there were other slips during that period which are not offered in evidence.

Mr. Kresel.— I have simply taken them out as they contained the deposits of cash.

Mr. Kellogg.— There were 149 slips during the period covered by the slips offered in evidence, and the slips offered in evidence, some of them, also show the deposits of checks. With that understanding, they go in as one exhibit.

Mr. Kresel.— All right.

Slips referred to and above enumerated, were received as one exhibit, and marked Respondent's Exhibit F of this date.

Mr. Guthrie.— Do you desire us to refer to the pages of the stenographer's transcript or to the printed pages?

The Chairman.— To the printed pages.

Mr. Guthrie.— Then we will conform to that.

The Chairman.— The Committee will adjourn to 10 o'clock to-morrow morning. All witnesses will be on hand.

Thereupon the Committee adjourned until 10 A. M., Thursday, July 10, 1913.

SENATE CHAMBER,

ALBANY, N. Y., *July* 10, 1913.

In the Matter of the Investigation by the Joint Committee on the Judiciary of the Senate and Assembly of the State of New York, into the charges preferred by John A. Connolly against Honorable Daniel F. Cohalan, a Justice of the Supreme Court of the State of New York, in and for the First Judicial District.

The Committee met pursuant to adjournment at 10 a. m.

Present:

The Members of the Committee on the Judiciary of the Senate and Assembly.

Hon. John F. Murtaugh, Chairman.

Appearances:

J. A. Kellogg, Deputy Attorney-General, Counsel for the Committee.

William D. Guthrie, Esq., and Einar Chrystie, Esq., Counsel for the Bar Association of the City of New York.

John B. Stanchfield, Esq., William Travers Jerome, Esq., Isidor J. Kresel, Esq., and John Quinn, Esq., Attorneys for the Respondent Daniel F. Cohalan.

The Chairman.— The Committee will be in order. We are ready to proceed.

John A. Connolly resumes the stand.

Cross-examination by Mr. Stanchfield, continued:

Q. You mentioned incidentally, Mr. Connolly, yesterday in the course of your examination by Judge Kellogg, the name of the man called Gallagher? A. Yes, sir.

Q. What was his first name? A. Patrick.

Q. Where was his — what was his first name? A. Patrick.

Q. Did he live in New York or Brooklyn? A. He resided at 628 Lexington avenue, borough of Manhattan.

Q. I understood you to say to Judge Kellogg that you had some business relations with him and some business difficulties with him? A. Yes, sir.

Q. Now, did both Gallagher and McNulty go with you into this fusion movement in the month of May, 1909, about a little before the time this money was refunded? A. I believe they attended the Cooper Union meeting, in the Lecture Hall at 5 o'clock one afternoon.

Q. And you were there at that meeting? A. I was.

Q. You saw McNulty there, P. J.? A. I did.

Q. And you saw Patrick Gallagher there? A. I believe I did.

Q. Now, referring to this — both of these men, Gallagher and McNulty were with you on this so-called Fusion Committee, were they not? A. Neither one of them.

Q. Were they on any committee in the fusion movement? A. Oh, they were vice-presidents of the Hearst meeting on a Sunday night, just prior to election.

Q. Prior to the election. Now, calling your attention to this so-called Scallon report. You and Scallon worked together on it, I assume, from what you say? A. Yes, sir.

Q. All of the information contained in it naturally flowed from you, did it not? A. Yes, sir, and it was all afterward corroborated.

Q. I am not asking about corroboration, I am asking you whether it flowed from you, this information in this Scallon report? A. The major portion of it; he got confirmation of it from other sources.

Q. When I get to that, I will ask you about it. A. I didn't intend to travel too fast, I beg your pardon.

Q. Did you write the Scallon report? A. Did I write the Scallon report?

Q. Yes. A. No, it was written by him, it so stated in the chapter, by R. O. S.

Q. Did you write any portion of it? A. I criticised portions of it, I suggested paragraphs in it.

Q. Now, I will read you from the original Scallon report handed to us by the Bar Association representative, and with reference to the settlement that was effected in the spring of 1909 or summer of 1909, between you and Cohalan: "This political history is important. In all probability it was the moving influence in bringing Cohalan to terms. Certainly Cohalan knew of Connolly's energies in the impending fight against Murphy and Tammany, and not only was it important that the publicity of a trial be avoided, which might have hurt Cohalan seriously, but it was good tactics to seal Connolly's lips by

effecting a settlement or, as a last report, pay back all of the money rather than permit Connolly, now in the vanguard of the enemy's ranks, to remain armed with such a weapon as was represented by the position in which Cohalan was put. The more I consider the matter the more convinced I am that Cohalan paid back this money as good politics simply." Is it true that you told Scallon at that time when he wrote those lines that you were in the vanguard of the enemy's rank? A. Every —

Q. Now, answer that question. Did you tell him you were in the vanguard of the enemy's ranks? A. I did not use the term vanguard at all.

Q. You know what it means? A. In the forefront of the battle, I assume.

Q. Didn't you regard yourself in the forefront? A. I was a very active member of the Committee of 19 and a belligerent member of the Committee of 100.

Q. Well, the Committee of 19 was the committee in command, wasn't it? A. No, it was the committee that picked the Committee of 100.

Q. Then the Committee of 100, was that in charge? A. The Executive Committee.

Q. So that you were on both the Committee of 19 and that committee that selected the Committee of 100 of which you were also a member? A. Yes, sir.

Q. Did you state those facts that I have just read in those few sentences to Mr. Scallon when you and he were collaborating upon this report? A. I turned over to Mr.——

Q. Did you state those facts embodied in what I have read to Mr. Scallon? A. No, he formed his own conclusions.

Q. Where could he get his information except from you? A. You can tell a man certain things and then he can write it and rewrite it and form his own conclusions.

Q. But you suggested? A. He probably did that from his sense as a newspaper man, I assume.

Q. Predicated upon facts you furnished him? A. Predicated upon oral and written documents I might have had in my possession.

Q. And facts you furnished him or statements? A. What I considered facts, yes, sir.

Q. Yes. A. Indisputably.

Q. When you were on the stand? A. Yes, sir.

By the Chairman:

Q. Did you read this report before it was handed up? A. Did I read that?

Q. The Scallon report? A. Oh, yes.

Q. And you knew that statement was in there? A. I read his report.

Q. You read that statement? A. Sir?

Q. You read that statement in there which Mr. Stanchfield just read? A. I made the statement?

Q. Did you read the statement Mr. Stanchfield just read? A. I read the entire report, so-called, I believe. It is under a chapter in the book that Mr. Scallon and I collaborated together on.

By Mr. Stanchfield:

Q. That book is the book upon which you and Scallon have been working for months, isn't it? A. Yes, sir.

Q. And you have read every line and syllable in it? A. Yes, sir.

Q. In the language that I have read, you have read just the same as you have read the rest of it? A. Yes, sir.

Q. And when I stated it to you here, you recognized it as being in the report? A. I recognized it — Mr. Scallon's words, yes.

Q. When you adjourned yesterday noon, or left the stand, I was handing up to you a ledger of the Victor Heating Company with a request that you find the entry where you subscribed $833.33 to the Hearst political campaign in 1906? (Counsel passes book to witness.) I would like you to look at it for just a moment? A. (Witness examines book.)

Q. Mr. Connolly, let me ask you one question. Do you seriously think that it is in there? A. No, but I have looked it up after you requested me —

Q. (Interrupting) I didn't — A. Not in the ledger, but I have got it in another way, Mr. Stanchfield, if you want it.

Q. I don't know, of course, what you mean by that, but I mean I don't want to stand here while you are spending much time, if you don't seriously think that you can find it. As a matter of fact, you don't feel that you would find that check in there, do you, anyhow? A. I might find it — charged to John A. Connolly; I drew a check to John A. Connolly.

Q. Well, if you can find it, why — A. (Interrupting) I can't find it, because I think the ledger is just prior to it. I can explain it to you.

Q. You said it appears on the books of the corporation. What you mean is that it was in a ledger preceding this. Where is the check book or stub book that covered this item? A. (The witness examined check book and passed paper to counsel.)

Q. You hand me a check dated November 3, 1906, payable to your own order, and deposited to your own credit, which went through the Clearing House November 7, 1906, for $250? A. $260.

Q. $260? A. Yes, sir.

Q. Now, what connection has that with the contribution to that campaign of $833.33? A. There was another deposit slip in the Cold Spring bank along with this check. Here it is (indicating, and handing check book to Mr. Stanchfield).

Q. What bank is this check book upon? A. The National Bank of Cold Spring on the Hudson.

Q. The bank at Cold Spring? A. Yes, sir.

Q. Now, according to this book, under check No. 287, appears November 5, '06, cash, $500. You mean that by adding that amount to $260, that it represents your political contribution? A. Yes, sir.

Q. That would make $760, wouldn't it? A. Well, more than that, Mr. Stanchfield.

Q. Well, there is this deposit here you called my attention to, or rather, check for $500. A. This is a deposit for $860, there is $860 deposited.

Assemblyman Weil.— A little louder, please, we can't hear.

A. (Continuing) $860 deposited in the Cold Spring bank on November 5th.

Q. I understand that testimony that you deposited that amount in the Cold Spring bank. You deposited this $260? A. Yes, sir.

Q. Didn't you get the cash on that check?

Assemblyman Gibbs.— Mr. Stanchfield, will you be kind enough to have those marked for identification?

Mr. Stanchfield.— I will when I get them all in shape as to what they represent.

A. Did I get the cash on that check?

Q. Yes. A. I did.

Q. I mean you went to the Colonial Bank in New York and took this check, dated November 3rd, for $260? A. I didn't go to the Colonial Bank.

Q. What bank did you go to? A. I didn't go to any — I —

Q. Where did you get the currency on it? A. I deposited the check in the Cold Spring bank.

Q. Well, did it go through the Cold Spring bank? A. (Reading) "Pay First National Bank of New York or Order National Bank of Cold Spring on the Hudson, D. W. Harkness, Cashier."

Q. You deposited it then in the Cold Spring bank, and did that make up the balance deposited on November 5th of $860? A. There was another check for $600.

Q. Where is that? A. The gentleman that loaned it to me I believe, would have it in his vouchers.

Q. Well then, when you testified that you personally contributed $833.33 of this $2,500, that was not accurate, was it? A. Absolutely.

Q. Well, you borrowed at least $600 of it? A. A man can borrow money.

Q. Do you care about saying of whom you borrowed the $600? A. I told you yesterday I didn't know. If you want to know, I will tell you.

Q. When you were hesitating yesterday, and reluctant about giving the names of the other two men that contributed to this $2,500, do you mean now that one of those two men did advance you $600 of this $833 more? A. He did, which I subsequently paid him.

Q. So that one man, whoever he was, paid the $600 out of your $833 for you? A. And he got paid for it by John A. Connolly.

Q. When did you pay him? A. I think half of it was paid three months from date, and the other half six months from date.

Q. Is there anything on any of your books to show where that $600 check came from? A. Just the deposit slip there.

Q. This is $860 (indicating)? A. Yes, sir.

Q. Is there any check anywhere to show how you paid that back to this man? A. I know I paid it back by check, or cash or something, I know I paid him every cent of it.

Q. You paid him back by check or cash or something, and you cannot produce? A. Well, in cash. That is I borrowed $600 from a gentleman on a certain date and on two subsequent days thereafter he got paid by me.

Q. In cash? A. I don't say — probably in checks, no doubt about it.

Q. When you got together in the way you said you did this $860, what did you do with it? A. What did I do with it?

Q. Yes. A. I turned it over to a gentleman that Mr. Chanler told me to.

Q. Sit up when you talk so we can hear you. You say you turned it over to a gentleman that Mr. Chanler told you to? A. Yes, sir.

Q. Is there any objection to stating who the man was you turned it over to? That certainly cannot embarrass anybody? A. Do you want me to tell you?

Q. That cannot hurt anybody. A. The Chairman of the Democratic Committee of Putnam.

Q. Who was that at that time? A. Asbury C. Townsend.

Q. Did you turn that over to him in cash? A. I believe so.

Q. Do you recollect about that? A. I believe there is no doubt about it.

Q. Did you give him the whole $2,500 in cash? A. It was distributed as per Mr. Chanler's instructions, and his instructions —

Q. Distributed by you? A. Distributed by me?

Q. Yes. A. No.

Q. Let me see if I understand you. You say that you — A. I turned it over. I turned over the major portion of it to Mr. Townsend as I recall.

Q. You turned over the major portion of it. How much was that? A. I should say that was —

Q. $1,255 would be the major portion of it? A. How much?

Q. I say $1,255 would be the major portion of it. Now, how much would you say? A. I think two — let me see — I think two-thirds of it was turned over to the county chairman.

Q. In cash. What was done with the other third? A. I think Mr. Townsend left instructions who to give it to.

Q. Left instructions with you? A. Yes, and I carried out those instructions.

Q. To whom were you to deliver that remaining third? A. Why to the — what do you call him, the county committeeman, Mr. Stanchfield, or the town committeeman?

Q. You have been in active politics for some years? A. I turned it over to whoever Mr. Townsend designated at the time.

Q. The name of the man you cannot now recall? A. I think his name is Brownley W. Wilkin.

Q. You think that is his name? A. Yes.

Q. You know now how much you turned over to him? A. I think it would be $500.

Q. $500. A. Yes. There were 13 districts in Putnam County and there was $5,000 for that County and it was divided as I recall pro rata.

Q. Among the 13? A. On Mr. Chanler's instructions and Mr. Townsend's instructions.

Q. In whose name was that provision of $2,500 made? A. In whose name was it?

Q. Yes. A. I do not know, practically Mr. Townsend.

Q. He was the chairman, wasn't he? A. Yes.

Q. You were the contributor of $2,500 of it, as I understand you? A. I was the contributor — that is,—

Q. (Interrupting).— Well, now, did you contribute — A. (Interrupting).— I raised —

Q. (Interrupting).— I don't care to go over that again; you have told us all that. I want to know if you contributed $500 in your own name, so that somebody can trace it in accordance with the law requiring accounts of these things to be filed. Did you contribute that in your own name, so that anybody can corrobrate what you say about it? A. Why, Mr. Townsend can corroborate it.

Q. Well, did you make the contribution in your name? That is a perfectly plain inquiry? A. I don't think I did, Mr. Stanchfield.

Q. You don't think you did? A. No, sir.

Mr. Stanchfield.—That check will be marked.

The Chairman.—There is another question the Committee wants to ask first.

Mr. Stanchfield.— Certainly. I was going to have that check marked.

By the Chairman:

Q. Mr. Connolly, has the Victor Heating Company been dissolved as a corporation, or is it still in existence? A. It is — everything — it is; I believe it is still in existence; that is, it was entirely sold out by the Sheriff in March, 1910.

Q. When? A. In March, 1910.

Q. Well, in other words, the corporation has not been legally dissolved at this time? A. Not that I know of, Mr. Chairman.

Q. Is there any creditors? Are there any debts outstanding? A. There are some, yes, sir; a great many signed off.

Q. Now, you swore that you paid — that Judge Cohalan paid you $3,940.55 on the 7th of May, 1909; returned it to you? A. On the 27th of May, 1909.

Q. Yes, on the 27th of May, 1909. Now, what became of this $3,940? A. It was put right in the business.

Q. Put back into the — A. (Interrupting) Business, yes, sir.

Q. Does the book show that? A. I believe so; the books do show it, yes, sir.

Q. There was an entry made at that time in the books? A. Yes, sir.

By Mr. Stanchfield:

Q. You understood the Chairman's question plainly, didn't you, as to what you did with this money that you received from Mr. Cohalan? A. I know I deposited it in the West Side Bank.

Q. You understood his question as to what you did with the money, with this money that you received — A. (Interrupting) The money was —

Q. (Interrupting) You say you put it in — A. (Interrupting) The money was put into the business.

Q. The money was put into the business of the Victor Heating Company? A. Yes, sir.

Q. Do you mean by that that you deposited the check that you received of $3,400 and odd in some bank to the credit of the Victor Heating Company? A. I deposited it to the credit of the John F. Sayward Company, and eventually it was paid back into the Victor Heating Company, within thirty days, or forty days, as I recall it.

Q. Let us get that first. You paid that check first into a bank to the credit of the John F. Sayward Company, is that right? A. Yes, sir.

Q. Is that correct? A. That is correct.

Q. Was that a corporation? A. That was a corporation.

Q. Were you interested in that corporation? A. I was president of it.

Q. Now, what happened — what bank was that deposited in to the credit of your concern? A. In the West Side Bank, 8th avenue and 34th street, New York.

Q. Now, you say that within 30 days that the same amount was checked by the Sayward Company over to the credit of the Victor Heating Company? A. Within 30 or 40 days, as I remember it.

Q. Have you got that check here? A. Why, I have got the note that was given, and the amounts that paid it up, etc.; it is in —

Q. (Interrupting) What note do you refer to? A. Why, the Sayward Company gave a note to the Victor Heating Company.

Q. For this $3,400? A. Yes, sir; and afterwards the Sayward Company paid back to the Victor Heating Company the amount of that note.

Q. Well, now, when the Victor Heating Company got it back, it got a check from the Sayward Company, didn't it, for the amount of the note? A. Oh, it got a series of checks, I believe. They are all a matter of record there.

Q. And what bank was the depositary of the Victor Heating Company at that time? That would be the summer of 1909, July or August? A. The Colonial Bank.

Q. Now, have you got the books here that show the deposits of those moneys to the Victor Heating Company? A. I believe Mr. Chrystie has got something along that line. If not, I have got the current books of the Victor Heating Company down at the hotel in the trunk.

Q. That set of books is a set of books that you have not had in evidence anywhere, as yet? A. No, sir.

Q. And those, you say, are at the hotel now? A. Yes, sir.

Q. Have you any objection to anyone examining them with you? A. I have not the slightest.

By Assemblyman Weil:

Q. Mr. Connolly, was the Sayward Company indebted to the Victor Heating Company in the sum of $4,000 at that time? A. Was the Sayward Company indebted? Why, it is a question of bookkeeping; the books will show; I can't recall at the moment. I will tell you the reason that it was put in there. The president of the West Side Bank was complaining that there was not enough of margin to cover — that is, the account wasn't any good. He was continually talking about it when he would meet me. Business men get that from bank presidents, and others, regularly. And I put it in there, and as I say, it stayed in there, it diminished slowly, but after 25 or 30 days I met the president, and he said, "Well, I see you are keeping up your bank balances pretty well"; that is, it is something to that effect. It found its way back into the Victor Heating Company.

Q. Here is one thing I want to know, I want to know why you turned your money over to the Sayward Company when it

was an indebtedness, as you claim, from Mr. Cohalan to the Victor Heating Company? A. I have tried to explain it to you.

Q. It was the Victor Heating Company's money, wasn't it? A. It was the Victor Heating Company's money and the Victor Heating Company.

Mr. Kellogg.— This paper here explains that. Here is a note that was given at the time, I have it here, and there is a statement there on the back of it and anybody who wants to know about it can see it.

Mr. Jerome.— Let's see it.

Mr. Kellogg.— Let me show it to the Assemblyman first. (Hands paper to Assemblyman Weil.)

The Chairman.— All right, proceed.

By Mr. Stanchfield:

Q. The explanation you sought to make in response to the inquiry of the Committee was that you wanted to keep up, in accordance with the request of the President of the West Side Bank, the balance, the credit balance of the Sayward Company? A. Yes, sir.

Q. And in order to do that you went through the formality of having the Sayward Company give the Victor Heating Company a promissory note for the amount of this money which you had received from Judge Cohalan? A. Simply a demand note which was paid.

Q. What relation did you sustain to this John F. Sayward Company? A. I was the president of the corporation. I acquired it in 1907.

Q. What was the business of that concern? A. The same as the Victor Heating Company, heating and ventilating apparatus, installation.

Q. Was John F. Sayward in it? A. John F. Sayward was the original organizer of it.

Q. Was it located at the same place of business as the Victor Heating Company? A. It was down on five hundred and something West Twenty-third street and I ran it there for three or four months and then it was very inconvenient to have two places, and to shorten expenses or cheapen up things I moved it all up to 2295 Broadway, I believe on the 1st of January.

Q. Up to 2295 Broadway after the 1st of January, 1908 or 1909? A. 1908.

Q. So that at the time when this note was given by the Sayward Company to the Victor Heating Company you were occupying the two corporations, the same place of business? A. Yes, sir.

Q. You were president of each? A. I was the president of both.

Q. And they had the same employees? A. Same employees — well, yes.

Q. Yes? A. It worked that way eventually and finally.

Q. And they were in the same line of business? A. Absolutely.

Q. Who is Mary Sayward? A. Mary?

Q. Yes. A. I do not think there is any such party.

Q. Was Mr. Sayward married? A. Mr. Sayward is married or was married.

Q. You knew his wife, didn't you? A. I know Mrs. Sayward very well.

Q. What is her name? A. I came to her rescue —

Q. What is her name? A. — when her husband left her.

Q. What is her name? A. Her name is Minnie C. Sayward.

Q. You borrowed money of her, didn't you? A. Yes, and paid her back, every cent.

Q. When did you — A. I took over the —

Q. When did you borrow it? A. When? I don't recall the exact date.

Q. How much did you borrow?

Mr. Kellogg.— If the Committee please, I have been very loath to interfere in this examination. I realize there must be a very broad field to it, but I cannot see any materiality in the questions of this kind that they have been asking him, which are not in issue here and I object —

Mr. Stanchfield.— It will get to be material.

Assemblyman Cuvillier.— The credibility of the witness.

Mr. Kellogg.— The credibility of the witness? This putting up a straw man here and knocking him down — what has that to do with the credibility of a man. We had a good illustration of that yesterday with the inconsistent statements he made. Those are all right and I don't want to limit the scope.

The Chairman.— Yes, I think we can get along better if we limit it to the issue. We will let this go in, and if it is immaterial we will strike it out.

Q. How much did you borrow of her? A. $200.

Q. You gave her notes? A. I gave her three notes which were all paid afterwards.

Q. She sued you upon them, didn't she? A. She sued upon — yes, she sued upon two of them.

Q. And you put in an answer swearing there was no consideration for them? A. I don't recall that.

Q. Just refresh your recollection. Don't you know that she sued you and you put in an answer. A. You can refresh my recollection.

Q. No, without it. Don't you remember you put in an answer and swore there was no consideration for them? A. I don't remember that.

Mr. Kellogg.— I think if the Committee please —

Mr. Stanchfield.— I will —

Mr. Kellogg.— I wish to make a statement, and if you will bear with me just a moment it may modify your action. I think that the position that I shall take in this proceeding as counsel for this Committee is: That this witness has, on the stand, made certain statements in regard to the matters here that we have been thoroughly going over, and that he has placed himself here in the nature of a participant in an illegal transaction, such that therefore it now become necessary that his evidence must be corroborated, in other words, it is not sufficient in itself. I don't know what more we can have. I don't know what use there is in going into the man's whole history and details of that nature.

Mr. Stanchfield.— What you mean to say is that the witness is unworthy of credit, I take it?

Mr. Kellogg.— I have not said that by any means.

Mr. Stanchfield.— If you put it that way, very well. I will stop very quickly.

Mr. Kellogg.— I won't say that and that is not my statement.

Mr. Stanchfield.— Why not say that? You say you feel his testimony is of such a wretched character that standing alone it is insufficient that you must corroborate it.

Mr. Kellogg.— I have not stated it that way but I have stated that he has as a witness placed him in such a position — and Mr. Stanchfield knows the rules of evidence very well, that require corroboration in cases of that nature and then another thing what is the use of going into all of these extraneous matters, the matters of his past life which are of no importance to this proceeding, and as a matter of fact you are bound by his answers in the first place, and in the second place it is immaterial too.

The Chairman.— Of course we feel in this matter we cannot tell just what this may lead to.

Mr. Kellogg.— I appeal to Judge Stanchfield as a lawyer of prominence not to do it. He knows what the rules of evidence are just as well as any man.

Mr. Stanchfield.—What was that remark, Judge?.

Mr. Jerome.— He said he appealed to you as a lawyer of prominence —

Mr. Stanchfield.— If it is prominence I will plead guilty. I thought he meant to say eminence.

The answer is perfectly apparent, to this proposition, if this Committee please, and it is this as Mr. Kellogg has suggested: If you take one angle or one aspect of the story that is related by the witness here, certain wrongs have been committed.

Now the fact that the witness has admitted his participation in a transaction, and that his whole story is built upon the perjury and falsification of the books and upon perjury does not change the right of counsel to probe his credibility further; and that is the reason I am pursuing this line of inquiry.

He has interjected this Sayward matter into this transaction, it didn't come from me. I never made any allusion to the Sayward corporation at all, that was brought out by the witness himself to account for the disposition of this money that he diverted from the Victor Heating Company and it was Mr. Kellogg himself who produced this note here. I never had seen it or heard of it before, and I submit I have a right to follow this inquiry still further and show that this witness did do just what I say that he did, that he put in a sworn answer in this woman's suit denying there was any consideration for the notes where he admits under oath that she had loaned him the money previously.

The Chairman.— The Committee understands the situation. We want to hurry it up and we will proceed along this line for another 5 or 10 minutes more.

Q. Didn't you employ James F. Swanick of 302 Broadway as your counsel to defend you in that case? A. I believe so.

Q. Answer me, you know who your lawyer was. A. On the Sayward matter?

Q. Yes. A. I believe it was James F. Swanick.

Q. Minnie C. Sayward, plaintiff, against John A. Connolly, defendant, Swanick was your lawyer, wasn't he (handing paper to witness)? A. It is there, it speaks for itself, Mr. Stanchfield.

Q. That is the original verification sworn to by you and signed by you, isn't it? A. You say the original. Let us see if it is my signature.

Q. That is your signature, isn't it? I suppose that is what you looked at it for (handing paper back to witness)? A. Yes, it is. I just saw the form, the regulation.

Q. You specifically deny in this paper but set up that at or about the time mentioned in the complaint the defendant made promissory notes but denies that the same were given for any consideration. You signed that statement, didn't you? A. Is it upon information and belief?

Q. Did I read the words "information and belief?" Is not in there, is it? A. I think it was information and belief.

Q. I am talking about the answer now. A. Turn to the affidavit and you will see.

Q. I am talking about the answer I told you. A. I cannot draw up an answer. I am a steamfitter. I am not a lawyer. I employ lawyers for that purpose, Mr. Stanchfield.

Q. No, but you know that Mrs. Sayward loaned you the money represented by those notes? A. I submitted to Mrs. Sayward —

Q. Answer my question, you knew she loaned you the money? A. She loaned me the money and I am trying to pay my debts gradually. Can you find fault with me for that?

Q. I will get to your payments later. Don't be disturbed about that. A. I am not disturbed.

Q. You swore in this answer there was no consideration for them? A. I was in the hands of my lawyer, of my counsel.

Q. You swore in this answer there was no consideration for it. A. That is there, it is plain and self-evident.

Q. Why don't you say so? A. I have said so, and you asked me this again and again.

Q. I will ask you again. A. That is my signature.

Q. You swear there was no consideration for these notes, don't you? A. I told you what —

Q. Will you answer that yes or no? A. I am answering it. Shall I answer it again?

Q. Yes. A. Whatever is in that paper I signed.

Q. Did you swear there was no consideration for those notes? A. Well, I swore —

Q. Did you swear in that answer that I have shown you that there was no consideration for those notes? A. Mrs. Sayward loaned me $200. I took up a worthless company for her and paid her from $6 to $800 for the stock when she didn't have a dollar in the world and her husband had abandoned her and left for parts unknown, and it came a time in this Gallagher episode that she had some money and I borrowed $200 from her on three notes, one-third —

Mr. Kellogg.— I object to this going any further. This is entirely immaterial to this inquiry.

A. (Continuing) The first notes became due just prior to the failure of the Victor Heating Company, which I paid; and after I got employment with the Thompson Starrett Company a lawyer sent me a letter and I began to pay with my slight salary because I felt that Mrs. Sayward was entitled to her money; $10 or $15 or $20 whatever it was possible or $30. The lawyer would not accept these payments and then wanted the whole thing. I told him I could not give him the whole thing. And when this thing came up in the papers the lawyer, I believe like some other gentlemen that I see in the room —

Q. I am glad you are not looking at me. A. I am looking straight at you.

Q. You were looking at Jerome? A. No, I was not looking at Jerome. I am looking at you.

The Chairman.— If this laughter don't cease I will direct the sergeant at arms to clear the room.

The Witness (Continuing),—And I paid Mrs. Sayward every cent that I owed her with interest at 6 per cent., and the lawyer I assume took out his fees or charged costs which they call " bread

and butter" or something to that effect, and the arrangement is all settled and settled satisfactorily to both the lawyer and Mrs. Sayward and to myself.

Q. Do you regard that as an answer to my question as to whether or not you swore in answer, in that answer there that there was no consideration for the notes? A. There is a sworn affidavit there, it must stand, it is a part of the record.

Q. Isn't it a fact — you have had your say — that she did sue you upon these notes and that you put in a false answer and that she did obtain judgment against you, and that you did not pay them until you had been served with an order for examination in supplementary proceedings, and when you did pay them you paid them out of money paid you by the New York World, is not that true? A. I have a salary there coming to me.

Q. Is not that true? A. If you put it that way, yes.

Q. Is not that true?

The Chairman.— I think he has answered that question. A. I have answered that question, Mr. Stanchfield.

Mr. Kresel.— This is the original answer. Mark it please.

(Same marked Respondent's Exhibit G) and is as follows:

"MUNICIPAL COURT OF THE CITY OF NEW YORK.

"Borough of Manhattan, Ninth District.

"Minnie C. Sayward, Plaintiff, against John A. Connolly, Defendant.

"The defendant for answer to the complaint herein alleges:

"I. That at or about the time mentioned in the complaint, the defendant made promissory notes, but denies that the same were given for any consideration.

"II. Denies each and every other allegation of the complaint.

"Wherefore defendant prays that the complaint be dismissed with costs.

"JAMES F. SWANICK,
"Attorney for defendant.
"302 Broadway, Manhattan, New York City."

Mr. Stanchfield.— So that there may be no question about this paper, Mr. Connolly, this answer that I have just shown you, Respondent's Exhibit G, H, and K,—

The Chairman.— Are you marking this for identification or offering it in evidence?

Mr. Stanchfield.— No, I am asking one more question.

Q. I call your attention specifically to that signature. A. Yes, sir.

Q. It is to the verification of that answer, and it is sworn to on the 8th day of March, 1912, before Philip Goldfarb, Commissioner of Deeds, City of New York. That is your signature? A. That is my signature.

Q. There isn't any question about that? A. Absolutely none.

Mr. Stanchfield.— Mark that signature.

(Signature referred to was marked Respondent's Exhibit H of this date.)

Q. And when you signed that, you were sworn to it before that notary? A. Yes, sir.

Q. And took an oath? A. (No answer.)

Q. And took the oath? A. Took whatever it says there.

Q. I say, you swore to it before that notary? A. Went through the form.

Mr. Stanchfield.— I ask to have that note that Mr. Kellogg produced marked in evidence.

(The said note was marked Respondent's Exhibit I of this date.)

Q. The long list of endorsements, Mr. Connolly, upon the back of that note, beginning with May 28th, and ending with July 30th, the small payments are all in your handwriting? A. I don't believe so. The bookkeeper attended to those details.

Q. (Counsel passes paper to witness.) A. (After examining.) No, that is in the bookkeeper's handwriting.

Q. In the bookkeeper's handwriting? A. In the bookbeeper's handwriting.

Q. Now, Mr. Connolly, in one of the conversations that you had with Mr. Cohalan, before you gave this note of $4,000, isn't it a fact that Mr. Cohalan stated to you that you better go see your lawyer about the matter? A. He told me to consult Mr. Cruikshank; he knows the details.

Q. He told you to consult with Mr. Cruikshank? A. Yes; sub-

sequent — I had seen Cruikshank without his knowledge; that is, that was my understanding.

Q. You saw him without his knowledge. Mr. Cohalan went far enough, when you and he were talking about that note, to tell you to see Mr. Cruikshank in regard to it? A. No, not at the first interview.

Q. I don't care what interview; but you gave — A. (Interrupting) Why, he said, "Consult Cruikshank, he knows all the details."

Q. Mr. Cruikshank had been your lawyer at the time when he had paid over that money, the same Mr. Cruikshank? A. Yes, the same Mr. Cruikshank.

Q. Now, I asked you yesterday whether or no in every conversation that you had when you were trying to patch up the peace with Cohalan before this note was given, whether he did not always say to you that the money that you had extorted from him stood between you, or in substance that? A. He never used the word "extorted."

Q. How did he phrase it? A. Oh, pay the money that stands between us.

Q. How else did he express it? A. (No answer.)

Q. When he says, the money that stands between us, he didn't simply use that isolated sentence and then stop. There was more to it than that, of course, was there not? A. Pass in your note for the money that stands between us.

Q. That is in your note? A. Pass in your note.

Q. Pass in your note for the money that stands between us? A. Or words to that effect; that is as I recall it, substantially.

Q. Or words to that effect. Now, how many times at different interviews, did Cohalan make this remark to you, "Pass in your note for the money that stands between us?" A. Between the 22d of March and the 5th of April?

Q. Yes. A. Oh, I don't think over two or three times.

Q. At least two or three times he made that remark to you, and at different interviews, didn't he? A. Two interviews I recall.

Q. Two you recall anyhow? A. I recall distinctly.

Q. When he used that expression. That expression was used to you by him, when you were trying to get back with him and restore your former friendly relations, were they not? A. As I understood it, Mr. Stanchfield our friendly relations were restored practically on the first day of November prior.

Q. Well, answer? A. And we were together and met frequently in November, December, January and February, and this thing came to me as a surprise, about handing in your note on the 22d day of March.

Q. Why do you use that expression, it came in as a surprise? A. Oh, well, I — he knew that I was down and out. He knew that I was unemployed, he knew that I had a family to support, and he was evidently, or, as I thought, trying to get me something to do, and I appealed to him as a family man, and on the 22d of March, he brought this question up about the note, and it surprised me very much.

Q. You are stating what your condition was, and what he knew. Now, in addition to that — A. I am stating what I told him.

Q. In addition to that, you also knew that you had taken from him $4,000 in money that he had to go out and borrow? A. He made that —

Q. In violation of a contract you made with him? A. He made that statement, he had to go out and borrow it, and I was surprised he got it so quick.

Q. Because you thought his circumstances were such that he could not? A. I felt that he —

Q. Had about all he could do to get along? A. Kindly don't put words in my mouth.

Q. When you said you were surprised that he could get it so quickly, what thought was lurking in your mind when you used that expression? A. I felt that he was — I felt that he was able to —

Mr. Gibbs.— We can't hear.

The Chairman.— I can't hear you.

The Witness.— I felt he was able to pay it.

Q. Why did you make the remark that you were surprised to get it so quickly? A. On account of what he said in the morning. He said, "I will have to go out and borrow it."

Q. You were surprised, you say, because he could get it so quickly? A. I was surprised he got it so quickly? I did not expect it that day.

Q. I will go back again and ask you when you say you were surprised, or amazed, whatever way you want to phrase it, that

he should demand this note, do you think it was strange that he should need something from you, should want something from you to evidence the fact that you had blackmailed him, as he said, at the time you — A. I object to the word blackmail, because my lawyer told me it was not blackmail.

Q. You said he made that statement, blackmail? A. I did not say anything of the kind.

Q. Didn't you say yesterday he told you at the time in Mr. Cruikshank's office, that it was blackmail? A. We were talking —

Q. Didn't he say that? A. He used the term blackmail, and Mr. Cruikshank took him to task for it.

Q. That was addressed to you? A. It was addressed to the both of us, apparently only three, and he spoke to Cruikshank and me, within Cruikshank's and my hearing.

Q. Mr. Cruikshank was not making any claim against Cohalan? A. Cruikshank was my lawyer. He was certainly making a claim.

Q. You were the man that owned the claim? A. I was the man that owned the claim.

Q. You were the man that owned the claim? A. I was the man that was making the claim through my lawyer, that is what lawyers are for, as I understand it.

Q. I will ask you if you did not swear to just this language on page 253 of these proceedings: "Q. He said to you that your demand was blackmail? A. Oh, after a tirade or after a lot of talk, he said, 'This is blackmail.'"

Q. You swore to that yesterday, didn't you? A. If that is the record, I assume it is correct.

Q. It is true, that is what I am getting at? A. He used the term blackmail.

The Chairman.—We will get along a good deal faster if you will wait and get the question that counsel puts to you, as precisely as possible.

The Witness.— I am trying to accelerate the case.

Assemblyman Cuvillier.— Ask him to keep his hand from his mouth.

The Witness.— What?

Assemblyman Cuvillier.— Keep your hand from your month, keep your hand on the chair?

The Witness.— Can I cross my leg?

Mr. Stanchfield.— If it was in some courts in New York —

Assemblyman Cuvillier.— Keep your hand from your mouth. We cannot understand you?

The Witness.— Don't do it?

Assemblyman Cuvillier.— Don't do it, no.

Q. During all these interviews you sought and had with Cohalan, you were asking him to get you some kind of a job? A. I was asking him to get me a position.

Q. Get you a position. You say that he suggested at one time a position in the Erie Railroad? A. He said he came near getting it. He was very pleasant about it.

Q. I am one of the attorneys of the Erie Railroad. I would like to know what place you think you could fill in the Erie Railroad?

Mr. Kellogg.— I object to that as immaterial.

The Chairman.— Sustained.

Mr. Kellogg.— It cannot possibly be that that is material.

Q. You said he spoke of a place with the Erie Railroad. Had you ever had any railroad experience? A. In compelling the Pullman Car Company to reduce its fare from Albany to New York to 75 cents from $1, and to Cold Spring, from 50 cents to 25 cents. You will find it on the report of the Public Service Commission of the Second District.

Q. Do you think that activity fitted you for employment with a railroad? A. I had other experience with railroads — I had done work —

Q. Had you ever had any railroad experience? A. I had done work for the Erie Railroad.

Q. Have you ever had any railroad experience? A. Have I ever had any railroad experience?

Q. Yes. I mean in the line of work? A. Yes.

Q. To work for a railroad is a different thing than to furnish materials? A. I was second auxiliary fireman on the construction of the Erie Railroad.

Q. I will take it as the limit of your experience as a railroad man then, that you are second auxiliary fireman. Did you name

any particular place in these talks with Mr. Cohalan that you wanted? A. Name any particular place?

Q. Yes. A. Oh, I was looking for anything.

Q. For anything. Do you know Senator Roosevelt? A. I know the Senator quite well.

Q. Did you know him well enough so you thought your relations with him were such you could influence his vote for United States Senator? A. I admire Senator Roosevelt —

Q. Answer my question? A. Oh, what is the —

Q. Did you know him well enough so you thought you could influence his vote in any shape or effect for United States Senator? A. No.

Q. You took $20 out of Cohalan, you say, if your story is to be believed, for your influence in trying to get Roosevelt to vote for him for United States Senator, didn't you? A. Nothing of the kind.

Q. Well, you said that Cohalan paid you $20 at Albany for your expenses? A. No, I didn't say that.

Q. Did he give you $20? A. Mr. Cohalan gave me $20 —

Q. (Interrupting) Did you ask him for it? A. I must have asked him for it, Mr. Stanchfield. Now, let us get that straight. I asked Senator Roosevelt to vote for the confirmation —

Q. (Interrupting) Was it for — A. (Continuing) For the confirmation of Mr. Cohalan for Supreme Court Justice.

Q. Was it to reimburse you for disbursements to come to Albany? A. I asked him for some help and he gave me $20 and I told him that would pay my expenses to Albany.

Mr. Stanchfield.— Now, one or two questions more and I will have ended.

Q. You stated here, in the progress of your examination, you made a special deposit in the Colonial Bank of $380 to meet certain notes you had given O'Hanlon in settlement of your litigation with him. Do you recollect that fact, that you so testified? A. I do; yes, I testified to that.

Q. You said it was a special deposit? A. Why, yes, it was laid aside in that bank for that purpose.

Q. Well, in what name are the deposits placed? A. I am not exactly clear on it. It was either John A. Connolly special or it was laid aside there to take up the last three notes, as I recall it.

Q. Well, you had banking experience enough to know that when you testified that you placed a certain amount of money in

a certain deposit that there must be a name of the depositary. Now, did you put that in the name of John A. Connolly, special, as you say — of course, that would be a perfectly proper way to put it, but I want to know if you did? A. Mr. Stanchfield, I am not here as to the method employed, but I am just as sure that it was done as I am that I am gazing straight at you.

Q. Well, you had a deposit there of the Victor Heating Company? A. Oh yes, sir.

Q. Did you have any individual account of John A. Connolly in that bank? A. No, sir.

Q. Now, you say that you have made a special deposit of this $380 in that bank? A. $380 or $375.

Q. Well, $375, take it that way, one or the other? A. I wanted to clean it up and I saw Mr. O'Hanlon and asked him if he would allow anything if I would pay the notes before they matured; and he said, No, you have kept your agreement for the last eight or nine months, and let them run along; I don't want the money.

Q. I am not keen about that. It is the special deposit of April 21, 1905, that I am inquiring about? A. Well, I recall that I did that.

Q. Recall that you did it? A. Yes, sir.

Q. In other words, you mean that you took a check, I will assume, of the Victor Heating Company for either $375 or $380 and transferred that amount to a special account in this bank? That is what you mean, isn't it, that is what you did? A. I mean that.

Q. And this check stub 410 in your check book under date of April 21, is the stub of the check to which you refer, isn't it?

(Counsel passes paper to witness.) A. (After examining) Yes, sir.

Q. Are you acquainted with a man in New York by the name of Larney, William A. Larney? A. William A. Larney?

Q. Yes. A. Yes, I know him.

Q. Do you know his brother? A. What is his brother's name?

Q. I don't know his first name; I didn't know but you might. You know William A. Larney anyway? A. You mean that big stout fellow?

Q. Yes. A. Yes, I have met Bill Larney.

Q. Did you meet him in New York, at the City Hall Park, shortly after the first publication of the New York World of your charges against Cohalan, signed by you? A. I met William A. Larney?

Q. Yes. Was there anyone with him that you recall? A. There was somebody with him.

Q. Was his brother Tom with him, Thomas Larney? A. I don't know.

Q. But there was somebody with him? A. There was somebody with him.

Q. Now, at that time did he address you, "Hello squealer," or in substance, that? A. Why, I don't recall that, Mr. Stanchfield.

Q. Do you deny that it occurred? A. Do you mean that man that was with Larney?

Q. No, did Larney himself say to you — A. (Interrupting) Did Larney? He may have used that expression.

Q. And did you say in reply, "You can't blame me, I was broke and needed money?" A. Oh, I can't recall what was said; I don't think very much was said.

Q. Well, did he say to you, this, in substance, at that time and place: "You don't mean to tell me that Cohalan took a $4,000 note from you and promised to give you a job for that when Cohalan knew that the note wasn't worth a cent?" And did you reply, "No, that wasn't true, but I had to put that in the story or I couldn't have sold it." A. I never stated that in my life.

Q. In language or in substance? A. In language or in substance.

Q. You had a great many conversations with Patrick Gallagher during your acquaintance with him in the last two years, hadn't you? A. Oh yes; yes, many conversations. Many conversations and much correspondence.

Q. Did you ever talk with him at or about the time you were endeavoring to force Cohalan to restore this money to you? A. Well, Mr. Gallagher at that time stuck to me like glue.

Q. Did you have conversations with him? A. Oh, many, many conversations.

Q. You say he stuck to you or you stuck to him? A. He stuck to me, I say, like glue.

Q. Like glue. Well, it was pretty — he was quite a valuable asset to you to have stuck to you, wasn't he, financially? A. I wish I had never met him.

Q. Now, did you state to Gallagher that you were making this claim at that time because of Cohalan's political position

and that you felt that Cohalan was not in a position to stand a suit or the publicity incidental to such a suit? A. Am I talking, or Mr. Gallagher?

Q. Did you say that, or that in substance, to Gallagher? A. Oh, I never said any such thing to Gallagher.

Mr. Stanchfield.— I think that is all.

The Chairman.— Re-direct.

Mr. Kresel.— One minute, please.

(Mr. Stanchfield and Mr. Kresel here engaged in a dialogue which was inaudible.)

Q. I think you testified yesterday — Mr. Kresel calls my attention to the matter — there was no formal meeting of the directors of the Victor Heating Company at the time when this Cohalan proposition was discussed. A. No, sir.

Q. (Continued.) Inserted in the book of minutes. Oh, where is the Fletcher letter you were to produce here? (Witness passes paper to counsel.)

Mr. Stanchfield.— I will offer that in evidence.

Mr. Guthrie.— May I see it?

(Mr. Stanchfield passes paper to Mr. Guthrie.)

The letter was received in evidence and marked Respondent's Exhibit J of this date. Said exhibit reads as follows:

"THE WORLD.

Editor's Room. NEW YORK, *December* 16, 1912.

Mr. JOHN A. CONNOLLY, 251 *West* 91*st street, New York City:*

DEAR SIR.— Referring to your call this morning, Mr. Pulitzer directs me to say that he will be very glad to see you at his office any time between two and four in the afternoon, on Wednesday or Thursday of this week.

I would suggest that you telephone me beforehand stating when you expect to be here.

Very truly yours,

JOHN FLETCHER.

Called office at 3 p. m., Wednesday, December 18th.

At Harvard Club Dec. 23d from 2 p. m. to 3.20."

Mr. Stanchfield.— I will read this letter with your permission.

(Mr. Stanchfield thereupon read Respondent's Exhibit J.)

Q. Under that, is that memorandum in your handwriting (indicating) on Respondent's Exhibit J? A. Yes, sir.

Q. (Reading). "Called at office 3 p. m. Wednesday, December 18th. Called at Harvard Club, December 23d from 2 p. m. to 3.20." I will have that marked.

Assemblyman Goldberg.— What is the date of that letter, Mr. Stanchfield, please?

Mr. Stanchfield.— December 16th.

Assemblyman Goldberg.— 1912?

Mr. Stanchfield.— 1912.

The Chairman.— A little more quiet in the room, please.

Re-Direct Examination by Mr. Guthrie:

Q. Mr. Connolly, after the settlement was arranged, as you have stated, on the 27th day of May, 1909, at the office of Mr. Cruikshank, when Judge Cohalan, Cruikshank and you were present, did you subsequently receive an account from Messrs. Atwater & Cruikshank? A. Yes, sir.

Q. And the paper now shown you is the account which you then received? (Mr. Chrystie passes paper to witness.) A. (After examining.) Yes, sir.

Q. Notwithstanding that account was there a check for $3,340.55? A. Yes, sir.

Q. What has become of that check? A. What has become of the check?

Q. Yes, what did you do with that check? A. I left his office at 43 Cedar street and walked up to the corner of John Street and Broadway—

Q. What did you do with it? A. I had the or sent the check to the Chatham National Bank —

Q. In what bank did you deposit it? A. West Side bank.

Q. At the credit or to the credit of what company? A. John F. Sayward Company.

Q. Did you endorse the check over on the back to the Sayward Company? A. Yes, sir.

Q. What proportion, what amount of the stock of the Sayward Company did you then own? A. I practically had all of it.

Q. What was the amount of the capital stock, if you can recall? A. I can tell you by refreshing my recollection.

Mr. Guthrie.— I offer in evidence the account on the letterhead of Atwater & Cruikshank, and receipted by them.

(Same marked Complainant's Exhibit 49, which is as follows:)

"New York, *May* 28th, 1909.

Victor Heating Company

In account with Atwater & Cruikshank.

Victor Heating Co. v. Cohalan:

Amount of claim collected on settlement after suit brought, being the face thereof, interest having been waived		$3,940 55
Fees of Atwater & Cruikshank	$500 00	
Check of Atwater & Cruikshank to balance	3,440 55	
		3,940 55

(Signed) ATWATER & CRUIKSHANK."

Q. And at that time you owned all of the stock which had been issued of the Victor Heating Company, except two shares which Mr. Southard held? A. Mr. Southard had two shares, and another party had one share, as I recall it.

Q. And the remainder was owned by you? A. 47 shares.

Q. You have been interrogated by respondent's counsel in regard to verification of the original complaint, and you were asked whether you had refused to verify the original complaint, and I understood you to state that you had. Did you receive, about the time of the verification of the complaint in the action of Victor Heating Company against Daniel F. Cohalan, a letter from your counsel, Mr. Cruikshank, and if so is that the original of that letter in Mr. Cruikshank's handwriting (handing paper to witness). A. That is Mr. Cruikshank's handwriting, and that is the letter.

Q. And that is the envelope in which it came (indicating)? A. Yes, sir, and that is the letter I received.

Q. And you received it about this date, March 11, 1909? A. I probably received it the same day.

Mr. Guthrie.— I offer the letter in evidence.

(Same received and marked Complainant's Exhibit 50.)

Mr. Guthrie.—(Reading.)

"Law offices of
ATWATER & CRUIKSHANK,
43 Cedar Street,
New York.
VICTOR HEATING COMPANY v. COHALAN.

March 11, 1909.

MR. JOHN A. CONNOLLY:

Dear Sir.— I have drafted the complaint and turned it over to Mr. Blackman for criticism, but I think it is quite ready. I want it verified by someone besides yourself or Mrs. Connolly. If necessary elect a new officer for that purpose.

Yours truly,
A. B. CRUIKSHANK."

Q. Now, in compliance with the suggestion contained in this letter, Exhibit 50, was anybody elected an officer for the purpose of verifying this original complaint? A. Yes, sir; John A. Cutter.

Q. And I understood you to testify that the complaint was verified in your office in your presence by Dr. Cutter? A. Yes, sir.

Q. Did you have any conversation with Mr. Cruikshank as to the reason which prompted him to state to you that another other that Mrs. Connolly or you should verify that complaint? A. Why, he stated that it would be better for me not to do so.

Q. Did you understand then what the reason was from him from anything he said? A. I don't recall it, exactly, Mr. Guthrie, what his reason was.

Q. You were asked this morning whether Judge Cohalan when the subject of the note for $4,000 was finally agreed upon, suggested that you should consult Mr. Cruikshank?

Mr. Stanchfield.— Consult a lawyer, I asked him.

Q. (Continuing) Did he say to consult your lawyer, or consult Mr. Cruikshank? A. "Consult Mr. Cruikshank, your lawyer, he knows all about it."

Q. He knows all about it? A. Or words to that effect.

Q. Did you consult Mr. Cruikshank in pursuance of that question? A. I did.

Q. State to the Committee what occurred between you and Mr. Cruikshank? A. Well, you mean, Mr. Guthrie, you mean subsequent to Mr. Cohalan's telling me to consult Cruikshank?

Q. Yes. A. Why, I went over to see Mr. Cruikshank, and told him about it, and told him what he had said, told what Mr. Cohalan said to me.

Q. Did you consult anyone else, and if so, whom? A. I consulted Judge Southard.

Q. That is the Mr. Southard who was a director of the company? A. Yes, sir.

Q. And did Judge Southard hand you a form of note which he would — which he suggested you might give to Judge Cohalan?

Mr. Stanchfield.— I don't care much about it, if the Committee please, except in point of time. I don't think there is anything relevant or competent, so far as Judge Cohalan is concerned, in what took place between the witness and Judge Southard.

The Chairman.— In the absence of the respondent?

Mr. Stanchfield.— Yes.

Mr. Guthrie.— I would like to identify it in order that when Mr. Southard is called —

Mr. Stanchfield.— There won't be any dispute about that.

Mr. Chairman.— All right.

By Mr. Guthrie:

Q. Did Judge Southard, about that time, hand you a draft note and is that the original of that draft then handed to you? A. That is.

Mr. Guthrie.— I offer it for identification.

Marked Complainant's Exhibit 51 of this date for identification.

Q. It is a fact, is it not, that at the time of the first interview with Mr. Chrystie, the attorney for the Grievance Committee of the Bar Association, you handed him an affidavit that you had sworn to? A. Yes, I believe I did, Mr. Guthrie.

Q. And it is also the fact, is it not, that you subsequently swore to another affidavit which he drafted? A. Yes, sir.

Q. And the affidavits which you have just referred to are the original affidavits that I now show you (handing to witness)? A. (After examining.) I swore to both of them, and handed them to Mr. —

Mr. Guthrie.— I would like to have those two affidavits marked for identification. If there is no objection I will mark them in evidence.

Mr. Stanchfield.— I don't know anything about them. I will look at them and let you know.

Mr. Chrystie.— Mr. Kresel looked at them.

Mr. Stanchfield.— Let us see them. I do not know what is in them.

The papers were marked Complainant's Exhibits 52 and 53 for indentification.

Q. You were interrogated yesterday at some length in regard to the first time when you made any suggestion to anyone in regard to handing Judge Cohalan the letter which you say Mr. O'Hanlon had written — I mean the copy of the letter which you say Mr. O'Hanlon wrote on or about January, 1904? A. Yes, sir.

Q. Is it not the fact that this affidavit, Exhibit 52 for identification was sworn to by you May 19, 1913, before any publication was made in the World? A. Yes.

Q. And is it not the fact that in that affidavit —

Mr. Stanchfield.— I object to that.

The Chairman.— Just a moment. I am not clear on that myself.

Mr. Stanchfield.— He cannot read from that affidavit. It is not in evidence yet.

Q. And is it not the fact that in that affidavit —

Mr. Stanchfield.— Just a moment, if the Committee please. Mr. Guthrie cannot read from an affidavit which is not in evidence. He has marked them for identification, and they were to be handed to us to see whether or not they would be in evidence. He cannot go ahead, and by indirection, corroborate his own witness by affidavits that are not in evidence.

The Chairman.— Have you offered them in evidence yet?

Mr. Guthrie.—We are perfectly willing to put them in evidence.

Mr. Stanchfield.—We want to see them.

Mr. Guthrie.—Without putting them in evidence, it is always admissible when a witness has been cross-examined in regard to a statement, particularly when it is urged that he never made such a statement before to anyone, to show that he did make the statement in an affidavit on a certain date.

The Chairman.—The affidavit itself is the best evidence.

Mr. Guthrie.—What?

The Chairman.—The affidavit itself is the best evidence.

Mr. Guthrie.— Upon that ground I offer the affidavit in evidence.

Mr. Stanchfield.— That is what I stated. Mr. Kresel wants to look at it.

Mr. Guthrie.— He had it yesterday.

Mr. Stanchfield.— He says he didn't read it.

Q. You recall, do you not, Mr. Connolly, testifying on or about June 18th, before the Grievance Committee of the Bar Association? A. Yes, sir.

Q. You recall then testifying in regard to the subject of the copy of this letter which you say Mr. O'Hanlon wrote and which you say is copied in this letterbook, the letterpress copy of which you gave to Judge Cohalan. You remember testifying on that day in regard to that subject, do you not? A. Yes, sir.

Q. Will you please look at page 10 of what purports to be the printed record before the Bar Association, and state whether or not that is a correct transcript of the statement which you then made?

(Mr. Chrystie hands same to witness.)

Mr. Stanchfield.— I submit, if the Chairman please, and the Committee, that that is not the proper way in which to make proof of any additional matter, material or relevant, in that

conversation. The proper way to make that proof is to ask Mr. Connolly whether or not anything else was said, and if necessary refresh his recollection. It cannot be done by using his testimony upon another occasion, at another place, in the absence of this respondent, for the purpose of corroborating the witness.

Mr. Guthrie.— You will recall that this is a matter that I interrogated the witness — or rather, Judge Kellogg interrogated the witness on direct, the subject of the delivery to Judge Cohalan of this alleged Cohalan letter; that Mr. Stanchfield elaborately cross-examined the witness in regard to whether or not he had ever disclosed to anyone that fact before this time, and if you desire me to read what occurred yesterday, to refresh your recollection, I will do it, and in every phase, conceivable phase of the matter he was interrogated as to whether or not this was not an afterthought that had not been communicated to the World, that had not been communicated to the Bar Association, and which was now being fabricated, and I submit in this matter.

The Chairman.— Counselor, this is redirect examination.

Mr. Guthrie.— It is redirect examination in regard to a matter opened up by the cross.

The Chairman.— I think the form should be that you should ask the witness as far as he can go, and then if it is necessary, refresh his recollection.

Q. Will you please state whether or not on or about the 18th of June, 1913, you testified before the Grievance Committee in regard to the subject to which I have just referred. A. I recall it now distinctly.

Q. Will you please state to the Committee what you testified in regard to that subject before the Grievance Committee on or about June 18, 1913? A. Why, briefly, after Mr. Cohalan returned from the Democratic National Convention at St. Louis, in 1904, I reported to him that Mr. O'Hanlon was very ugly, that he had brought a suit for the dissolution of the corporation, and that I had taken the letterpress copy of our agreement out of the letterpress book, and I handed it to him, and I recall his words: "This would be a case for the grand jury if it was found out," or substantially that.

Q. Have you examined the transcript of your testimony before the Bar Association?

Mr. Stanchfield.—What page is that on?

Q. As printed on page 10 of the printed record I show you? A. I have read it, yes, sir.

Q. And was the transcript correct? A. To the best of my knowledge and belief, yes.

Mr. Guthrie.— I would like to offer that record in evidence.

Mr. Stanchfield.— I object to it for that purpose.

Mr. Guthrie.— Do you object to it for all purposes?

Mr. Stanchfield.— Yes.

The Chairman.— Has he exhausted his recollection? Has he practically stated all that is in there?

Mr. Stanchfield.— He has stated the substance of what is in there.

The Chairman.— Is there anything further in there, Counselor, that he has not stated?

Mr. Guthrie.— No.

The Chairman.— That is sufficient then. That is all right.

Mr. Guthrie.— I think, Mr. Chairman, that the record should show that we offer in evidence the record, the transcript of this testimony before the Bar Association, in order that it may not be said that we left this matter, it might be commented on as one of great significance, uncorroborated.

Mr. Stanchfield.— It does not corroborate the witness to put in his testimony on another occasion.

Senator Wagner.— Do you mean he made a similar statement at another time?

Mr. Guthrie.— I think every statement of this witness that has a material bearing upon this matter should, if practicable, be corroborated, in order that if it is not corroborated —

Senator Wagner.— A statement that the witness made a similar statement at another time does not corroborate the witness.

Mr. Guthrie.— It does corroborate the witness, when the witness has been cross-examined upon that subject, and the suggestion made in every form that testimony —

Mr. Quinn.— When was the witness cross-examined on that subject, and by whom?

Mr. Guthrie.— The witness was not cross-examined.

Mr. Quinn.— Before the Bar Association, when was he cross-examined, and by whom, what page?

Mr. Guthrie.— Everybody knows that no witness before the Bar Association was cross-examined, because Judge Cohalan declined to appear.

Mr. Quinn.—You just said that he had been cross-examined. Was that statement correct?

Mr. Kellogg.— Yesterday, here.

Mr. Guthrie.— At the hearing here, yesterday.

Mr. Quinn.— You are offering a record in which you seek to give the impression that he was cross-examined.

Mr. Guthrie.— The part I refer to is on page 10, the latter half.

The Chairman.— How much of this record do you want in? You don't want the whole record of the whole proceedings before the Bar Association?

Mr. Guthrie.— I should prefer that it go in.

The Chairman.— The whole written into our record?

Mr. Guthrie.— I would like to have it marked as an exhibit.

Mr. Quinn.— That was not under oath, you know.

Mr. Guthrie.— They understand it.

Mr. Quinn.— None of it was under oath. Mr. Guthrie offered 3,400 pages of ex parte testimony, not under oath.

The Chairman.— The Chair will rule that this part just referred to, on page 10, if you want that in as part of the corroboration, it will be admitted.

Mr. Guthrie.— I ask the —

Mr. Stanchfield.— I don't see how it could be admitted as corroboration.

The Chairman.— Not of the fact testified to, but the fact that he made this statement here, before the Bar Association.

Q. (Reading.)

"By Mr. Chrystie:

"Q. And was a copy made of it?"

(Referring to the letter which the witness said O'Hanlon wrote).

"And was a copy made of it? A. Yes.

"Q. What was done with the copy? A. How is that, Mr. Chrystie?

"Q. What was done with the copy of the letter? A. It was copied in the back of a letterpress book.

"Q. And it was not copied in the regular place in the letter-book where a letter sent on that day would be copied in the regular course of business? A. No.

"Q. But it was copied in the back of the book? A. It was copied in the back of the letterpress book.

"Q. And is the copy still there? A. It is not.

"Q. What has become of the copy? A. After he returned from the St. Louis National Convention in 1904, Mr. O'Hanlon had left the Company and he went in the employ of a rival concern — and he was disgusted — if I can use the word, — at the arrangement, and he became rather ugly, and he wanted the business wound up, and he brought proceedings in the Supreme Court for its dissolution; and I took the copy of the letter and gave it to Mr. Cohalan when he came back from St. Louis — I gave it to him when we were on a Broadway car and when I handed it to him he crumpled it up and stated — I will never forget his words — 'This would be a case for the Grand Jury if it was found out.'

"Q. What? A. He said: 'This would be a case for the Grand Jury.'"

Q. Mr. Connolly, you were examined yesterday in regard to the testimony of Mr. O'Hanlon before the Grievance Committee of the Bar Association. Do you recall that? A. I do.

Q. You were asked: "Did you hear him asked whether he had written such a letter as you were talking about? A. He was asked that. Q. Did he say he did not recollect writing any such letter? A. I think that was in the testimony, Mr. Stanchfield. Q. I am not asking you what was in the testimony, I am asking you if you did not hear him say before the representatives of the Bar

Association, in answer to their inquiry, that he did not recollect writing this letter tendering Cohalan 55 per cent. of the net profits of such work as he might obtain from the city? A. I think that is correct, Mr. Stanchfield."

I now ask you to refer to page 189 of the printed transcript which I have before me, and state what, if anything, in addition to the matter stated by Mr. Stanchfield was stated by Mr. O'Hanlon at that time in regard to that subject?

Mr. Stanchfield.— I object to that.

The Chairman.— Objection will be sustained.

The Chairman.— Now, counsel, why not exhaust this witness's memory as far as possible, and if necessary we will allow you to refresh his recollection?

Q. Do you remember there were a number of questions put to Mr. O'Hanlon in regard to that matter? A. Yes.

Q. Do you recall that he testified that it is perfectly possible that it happened, that is, the writing of such a letter? A. As I recall it, he said that, and he also said when questioned, that he would not deny that he did not write such a letter.

Q. May I ask you if this is what occurred before the Grievance Committee?

Mr. Guthrie.— May I read it, Mr. Stanchfield?

Mr. Stanchfield.— I am not going to object.

Mr. Guthrie (reading).— "Q. See if I cannot refresh your recollection about it —"

Mr. Stanchfield.— Who is putting the inquiry?

Mr. Guthrie.— Mr. Chrystie. "See if I cannot refresh your recollection about it. Didn't you write him a letter to the effect that you agreed to give him 55 per cent. of the total amount of the orders that he obtained for the company from the city department known as the Departments of Buildings and Public Offices; wasn't that the substance of the letter which you wrote to him? A. I don't remember writing such a letter. Q. You have no recollection of it at all? A. No. Q. And you don't remember pressing it in the back of the letter book? A. No. Q. Haven't you the slightest recollection of that? A. No. Q. But it is perfectly possible it happened, isn't it? A. Yes."

Mr. Kresel.— Go on, Mr. Guthrie, to the following page.

Mr. Guthrie.— You want me to read on?

Mr. Kresel.— Yes.

The Chairman.— What page is that, Mr. Guthrie?

Mr. Guthrie.— This is page 189. Shall I read right on?

Mr. Kresel.— The next three or four questions on the page following.

Mr. Guthrie.— I will read for the next three or four pages.

Mr. Kresel.— You don't have to do that.

Mr. Guthrie.— I would like to in order that we may go ahead.

Mr. Stanchfield.— Aren't you going to call him as a witness?

Mr. Guthrie (reading).— "Q. Don't that refresh your recollection that there was a communication on the subject? A. We had nothing to do with any 55 per cent proposition, but there was about turning over 51 per cent of the stock of the company.

"Q. That proposition was rejected by the directors, but after that, didn't you have another conference with your co-directors, and didn't you agree to pay Mr. Cohalan a commission, or perhaps it was designated — perhaps you used the word commission, or 55 per cent of the total amount of the orders that he obtained for the company? A. I don't remember it.

"Q. Or 55 per cent of the net profits? A. I don't remember it.

"Q. Don't you remember writing this letter that I speak of? A. No, sir.

"Q. But you won't say you did not do it, will you? A. No."

Mr. Kresel.— That is as far as I want you to read.

Mr. Guthrie.— Then at the bottom of the page (reading) "Q. Did you at any time say that one of the reasons you wanted to get out of the company was that they were paying commissions for the city work that they were getting? A. I may have given that as one of the reasons.

"Q. There is no doubt you have given that — "

Mr. Stanchfield.— I ask that be stricken out. It has no relevancy and is not cross-examination.

The Chairman.— As I understand it this is O'Hanlon's testimony before the Bar Association.

Mr. Stanchfield.— Not under oath and not in our presence.

Mr. Guthrie.— None of this testimony before the Bar Association is under oath. In our proceeding we had no authority to administer oaths.

Assemblyman Goldberg.— Is Mr. O'Hanlon to be called as a witness?

Mr. Kellogg.— We intend to call witnessses that were called before the Bar Association and I may state that I believe before I get done that I shall call every witness who can testify from personal knowledge to any matters of the inquiry.

The Chairman.— I think this will shorten the matter up if we call the witness and let him testify to that and you can refresh his recollection.

Assemblyman Goldberg.— Mr. Guthrie, in connection what you have read there is nothing in that record to show that Mr. Chrystie endeavored to find out whether as a matter of fact that letter was not copied in the last page of the letter book, but on page 492 and was not indexed there.

Mr. Guthrie.— I don't follow your point. I think page 492 is the last page of the book now.

Assemblyman Goldberg.— 492 is the last. But I am anxious to find out if whether Mr. Chrystie was anxious, in examining the witnesses before the Bar Association, to find out as a matter of fact that that letter book — that the letter was copied on page 492 of the letter book which generally contains 500 pages, and that letter was not indexed in that letter book; whether he pursued the examination along those lines or simply stopped and was satisfied with the story that the letter was simply on the last page of the book?

Mr. Guthrie.— I have no doubt whatever that he examined the index to see that letter, that letter was copied, or whether any such letter was copied in the regular order.

Assemblyman Goldberg.—There is nothing in the record to show that, is there?

Mr. Guthrie.— In the letter book, no. The letter book shows that some of the pages have been cut out.

Assemblyman Goldberg.—Your record that you are reading from don't indicate —

Mr. Guthrie (interrupting).— The book itself was marked in evidence before the committee.

Mr. Stanchfield.— Mr. Guthrie, it will be conceded, will it not, that the Bar Association did not report to the Governor the name of Mr. O'Hanlon as having been one of the witnesses before it?

Mr. Guthrie.—That is the fact. I understand that the copyist in copying the names omitted Mr. O'Hanlon's name. That is the only significance to it.

The Chairman.—All right. We are ready to proceed, Mr. Guthrie.

Mr. Guthrie.— I will have to take up a few minutes in identifying some accounts. I will do it as briefly as possible.

Assemblyman Levy.— Will it be conceded too, Mr. Guthrie, that the Bar Association made no report to the Governor in respect to the service contract of Mr. Connolly with the World?

Mr. Guthrie.—They made no other report than the one that is before you.

Mr. Kresel.—Will it also be conceded that the minutes of the testimony taken before the Bar Association were not transmitted by the Bar Association to the Governor?

Assemblyman Schaap.— I don't hear that. What is that?

Mr. Jerome.— The minutes before the Bar Association were not transmitted to the Governor.

Mr. Stanchfield.— The testimony.

Q. Referring to the book now shown you, is that the first or the original ledger of the Victor Heating Company or the second one in use? (Mr. Chrystie passes book to witness). A. (After examining) You are asking which, the first or the second?

Q. Yes, I am asking if that is the first one that was opened in 1900 or — A. (Interrupting) No, it is the second one.

Q. And when was that book opened? A. In 1904 by Mr. Philip B. Gaynor.

Q. And that continued in use how long? A. Why, for two or three years as I recall it.

Q. Was a new set of books opened about June, 1909? A. A new set was opened in June, 1909, yes, sir.

Q. Where is the preceding ledger? A. The preceding June — it is lost, I cannot find it, Mr. Guthrie.

Q. Where was it when you last saw it? A. It was in the office of the Victor Heating Company.

Q. That was among the books seized by the sheriff, as you have testified? A. Yes, sir.

Q. Where is the ledger following that one? A. Following this one? (Indicating book in witness's hand.)

Q. Yes. A. Well, that is the ledger that is lost.

Q. When did you last see that? A. Well, now, I thought I was talking on that missing ledger right straight through.

Q. How many ledgers are missing? A. Why, there is the first set, that is lost, and there is the set between this ledger and the current ledger.

Q. When did you last see the one between that ledger and the current ledger? A. Why, at the office of the Victor Heating Company just before the letter.

Q. Was that among the papers seized by the sheriff? A. Yes, sir.

Q. Have you made a search for these missing books? A. I have as far as possible.

Q. You have referred just now to a current ledger? A. Yes, sir.

Q. What period does that cover? A. From June 1, 1900, up to the present time.

Q. From June 1, 1900, up to the present time? A. June 1, 1909, I beg your pardon.

Q. Up to the present time? A. Up to the present time, yes, sir.

Q. And have you produced that book? A. Mr. Stanchfield has asked for permission to see them if necessary, and they are down —

Q. (Interrupting) Where is that book? A. They are down in the Hotel Ten Eyck.

Q. And you will produce it after recess? A. Yes, sir.

Q. Now, referring to the book before you, which began in 1904, as you have stated, I wish you would state to the Committee whether there is a John A. Connolly salary account at folios 36 and 37?

Mr. Stanchfield.— Well, now, I object to that as not rebuttal.

Mr. Guthrie.— Why, this is preliminary. It is strictly rebuttal, I think you interrogated him about these items —

Q. Mr. Stanchfield (Interrupting) I don't mean rebuttal; it is not re-direct. It may be rebuttal; I don't know anything about that. I mean it is not re-direct.

Mr. Guthrie.— I say that it is preliminary. I want to show —

Mr. Stanchfield (Interrupting) I will waive that, you say it is preliminary. I don't press my objection to your asking if there was such an account.

Mr. Guthrie.— I want him to identify the account, and then I will show —

Mr. Stanchfield (Interrupting) I have no objection to that.

Q. There is such an account at folios 36 and 37? A. Yes, sir.

Q. That represents your salary account as president of the Victor Heating Company? A. Yes, sir.

Q. And that extends over what period? A. From May 10, 1904, up to January 13, 1905.

Q. Is there also in that ledger a personal account, John A. Connolly? A. (After examining book) Yes, sir.

Q. At folio 47? A. (After examining book) Yes, sir.

Q. How is that headed? A. (after examining) John A. Connolly, personal.

Q. Is there also a commission account in that ledger at folio 186? A. (After examining) Yes, sir, and one 187.

Q. And how is that headed? A. Commissions.

Q. You have testified in regard to the account which you say was in the back of the ledger and which you say was cut out in June, 1909? What was the heading of that account?

Mr. Stanchfield.— Well, now, just a moment.

Q. (Continuing) That is the so-called false account about

which you were interrogated? A. Memoranda, Daniel F. Cohalan.

Q. And what items were entered in that account if you can remember, and if you cannot, will you refresh your recollection?

Mr. Stanchfield.— That has all been gone over. We have been all over that.

Mr. Guthrie.— Well, then, it is admitted that those were the items in the letter of January 12, 1909, sent to Judge Cohalan?

Mr. Stanchfield.— That is what the testimony shows.

Mr. Guthrie.— With that concession.

Mr. Stanchfield.— No, that is what the witness has testified to.

Mr. Guthrie.— No, with the concession that the witness has so testified.

Mr. Stanchfield.— Yes, he has testified to that.

Assemblyman Gibbs.— May I ask a question?

By Assemblyman Gibbs:

Q. Mr. Connolly, may I ask you whether that account on the last page of this letter referred to as the Cohalan memorandum was regularly indexed in the ledger with the other account? A. I don't think it was.

Q. If not, why not? A. Well, you know it had all gone through the different accounts.

Q. But you indexed every other account in that ledger, did you not? A. Well, the bookkeeper did it.

Q. Well, the bookkeeper.

By Mr. Guthrie:

Q. Who is the bookkeeper who kept the ledger? A. Mr. Wiley.

Q. So he wrote out this account in the back of the ledger that you called the memorandum account? Who wrote it out, Mr. Wiley? A. Mr. Wiley.

Q. It was in his handwriting? A. I believe it was.

Q. And as a matter of fact, that account was wholly written in to that sheet at or about the time of the writing of the letter of January 12, 1909? A. Yes, sir.

Q. You have referred, in answer to a question of Senator Foley, to the items appearing in the books, and I am now going to ask you to trace from the accounts which you have identified, each one of the items contained in this letter of January 12, 1909, and explain —

Assemblyman Gibbs.— Mr. Guthrie.

Q. (Continuing) Explain how you came to have those entries made in the back of the book and from what you made them up at the time?

Mr. Stanchfield.— Well, I submit that is not redirect.

The Chairman.— We will let it go.

Mr. Stanchfield.— It will take a long while to do that.

Mr. Guthrie.— I think that 15 minutes will cover it. I think it is extremely important.

Mr. Stanchfield.— It doesn't corroborate the situation or help things any to do it.

Mr. Jerome.— Have the stenographer copy it in.

The Chairman.— Well, we won't waste any more time arguing over it. The objection is overruled.

Q. Answer as briefly as you can.

Assemblyman Gibbs.— Mr. Guthrie, if you will pardon me.

The Witness.— Will you excuse me a moment, Mr. Chairman? (The witness at this point retired from the chamber.)

Q. Mr. Connolly, the first payment which you said you made to Judge Cohalan was under date of October 29, 1904, cash, $500. A. Yes.

Q. Will you please state how you got that cash?

Mr. Kresel.— We have been all over that.

Q. And what, if any, entry appears in the books of the company, in the ledger before you, in regard to that?

Mr. Kresel.— Now I object to his stating what entry appears there, unless it appears that he made the entry and knows whether it is correct.

Assemblyman Goldberg.— Mr. Guthrie, pardon me, please. I would like to get a little light —

The Chairman.— Gentlemen, I think the interruption of counsel like this is very improper and it would be much better to let counsel proceed with their examination until they have finished, and you gentlemen reserve your questions until afterwards, and put them through the Chairman, or ask them direct after counsel has finished at the end of their examination, because I think we will get along faster if we do it that way.

Mr. Guthrie.— In view of Mr. Kresel's objection, I will proceed along a different line.

Q. On the 29th of October, 1904, what amount of cash, if any, did you draw from the funds of the Victor Heating Company and from what bank?

Mr. Kresel.— May I call the Committee's attention that this has all been testified to. He testified that he drew a check for $525, cashed it, paid $500 to Cohalan, and put $25 in his pocket. I don't think he is going to add anything to that.

Mr. Guthrie.— I am going to prove that the check for $525 was charged to his salary account, and appears upon the ledger which has been produced.

Mr. Kresel.— I claim that has got to be proved in the regular way, and not by this witness. He did not keep the ledger, and did not make the entry.

Q. Mr. Connolly, did you direct that that item of $525 should be charged to your salary account?

Mr. Kresel.— I submit that is immaterial.

By the Chairman:

Q. Did you see that entry entered in the ledger, Mr. Connolly? A. I saw the entry, and I instructed it to be put in there, Mr. Chairman.

Q. Did you see the entry, did you see it put in there yourself? A. I instructed it to be put in.

Q. Answer my question, Mr. Connolly: Did you see this entry made yourself in the ledger? A. Why, I would not swear to that, Mr. Chairman.

By Mr. Guthrie:

Q. Did you see it about the time it bears date? A. I gave instructions. I would look at it the next day, or daily. I kept in touch with it.

The Chairman.— Objection overruled. Proceed.

Q. Will you please read to the Committee the entry in your salary account?

Mr. Kresel.— Now I object to that. I submit that is incompetent. The man that kept that book is here, and there is no reason why he cannot be called, so that we may have an opportunity to cross-examine him upon the subject.

Mr. Guthrie.—We will call him.

Mr. Kresel.—Then why don't you do it in the regular way.

Mr. Guthrie.—This witness is on the stand, and we are entitled to show by this witness all or any corroboration that is to be found for his story in the books, for what it is worth.

Mr. Kresel.—Very well then, do it by the man who is competent to testify.

Mr. Guthrie.—And prove it by this witness from the ledger he has before him.

Assemblyman Levy.—And by the other man, so that he may be cross-examined.

The Chairman.— I think this will save time. I think your objection is a very serious one also, but we will proceed along this line.

Mr. Guthrie.— The Chairman will recall that the evidence left as it is leaves the intimation clearly as it stands practically alone, on this man's story, and I want to show by entries that were made in his regular books to his knowledge and at the times in regard to each one of these alleged items.

The Chairman.— Of course you understand, Mr. Guthrie, it is not really the legal way of proving that.

Mr. Guthrie.— I understand it is, in view of the cross-examination of this witness.

The Chairman.— Mr. Connolly here, the witness, saying he did not see those entries made in the books, and he did not make them there himself. And yet the man who made those entries and who knows all about them is here present in the room, he is the one who should be called to explain it first. Of course, it is going a roundabout way to do it that way.

Mr. Guthrie.— It is beating about the bush.

The Chairman.— Yes, it is beating around the bush. You may proceed this way.

Mr. Guthrie.— And I may state here that I do not expect or suggest that there are any entries in these books apart from the testimony of the witness bringing the payment home to Judge Cohalan. I am simply proving this for what it is worth, and then the question is whether there is any corroboration of the fact that the payments were made to Judge Cohalan, and we will take that up later.

A. Am I supposed to answer now? Are you ready?

The Chairman.— The objection has been overruled, go ahead.

A. (Continuing.) On October 29, 1904, there is an item of $525 charged to my salary account.

Q. Is it a fact that that represents $525 which was drawn in cash from the New York Produce Exchange on that day by you? A. Yes, sir.

Q. And of that $525, you claim you paid $500 to Judge Cohalan? A. Yes, sir.

Q. Now, referring to December 6th or 7th, being the second item in this letter of January 12, 1909, of $200, what, if any entry relating to that appears upon that ledger at Fol. 37? A. (Mr. Jerome looking over witness' shoulder) On December 7th, there is an item of $225 charged to my salary account.

Q. Where was that drawn from? A. The Produce Exchange Bank, Broadway branch.

Q. In bills? A. In bills.

Q. And of that you say any amount was paid to Judge Cohalan? A. $200, as I recall.

Q. And the whole amount of $225 charged to your salary account? A. Yes, sir.

Q. The next item is under date of January 20, 1905, payment of $185. What entries appear in regard to that, January 20, 1905?

Mr. Jerome (examining book over witness' shoulder).— Mr. Connolly, if I may help you, if you will refer to the Commission Account at fol. 186? A. Yes, sir. Q. Under date of January 20, 1905, do you find any entry, and if so what entry? A. I find an entry on January 20, 1905, of $190.

Q. From what — and that is charged to commission account? A. Yes, sir.

Q. From what bank or on what bank was that item drawn? A. As I recall it, the Colonial bank.

Q. Was it in bills? A. In bills; yes, sir.

Q. And you claim that of that amount, how much was paid to Judge Cohalan? A. $185.

Q. Is it the fact that the stub for check withdrawing that amount of $190, is one of the stubs which you have testified as having been torn out of the check book? A. Yes, sir.

Q. Of the Victor Heating Company, showing this account with the Colonial bank? A. Yes, sir.

Q. Now, turn to January 23, 1905, of the commission account, what item do you find there? A. An item of $60.

Q. From what bank was that drawn? A. From the Colonial bank, I believe.

Q. What was done with it? A. $55.55 was paid to Mr. Cohalan.

Q. And the whole $60 charged to commission? A. Yes, sir.

Q. Is the check for that amount — is the stub for the check for that amount, one of those which you say were torn out of the check book, stubs of the check book of the Victor Heating Company? A. Yes, sir.

Q. How can you remember details down to dollars and cents of these transactions? A. Why, I have been over it so much, and recall the entire transaction, that it is not much trouble to remember it.

Q. Now, turning to May 22, 1905, is there a charge of any amount to commission account? A. Yes, sir.

Q. How much? A. $630.

Q. Is there another item on that commission account of $380 that you have testified to yesterday (Mr. Chrystie pointing item out to witness)? A. On April 21st is $380.

Q. And on May 22d, how much? A. $630.

Q. Six hundred what? A. $630.

Q. $630. Is that $380 the money that you said had been set aside to pay the O'Hanlon notes? A. Yes, sir.

Q. Now, taking the payment which you say you made on August 2d, 1905, of $1,000, what, if any entry is contained in that Commission Account? A. August 2d, to cash $1,000.

Q. Where was that drawn from? A. The Colonial Bank.

Q. What was done with it? A. I went down town and handed it to Mr. Daniel F. Cohalan.

Q. Is the stub for check of that date, for that amount, one of those which you say were torn out of the check book? A. Yes, sir.

Q. The book now produced? A. Yes, sir.

Q. Referring to the next payment that you have testified to, September 17, 1906, for $500, what entry is there in regard to that? A. September 17, 1906?

Q. Yes. Do you find any entry in the Commission Account referring to that payment, or alleged payment of September 17, 1906, or on November 10th? A. That is apparently not in here.

Q. Will you please refer to the stub book, or the stubs of the check book in use, of the Colonial Bank, and state whether or not, under date of about September 17th, a check was drawn for any amount, and if so for what amount (handing book to witness)? A. Check apparently for $500.

Q. What would be the stub number? A. No. 5758.

Q. Why was there no entry in the ledger of that amount? A. I guess that is the ledger that is lost.

Q. Then the ledger between that and the one you are to produce after recess, is the one you say is lost? A. Yes, sir.

Q. Referring to November 10th, the alleged payment of $500 on that date, what, if any record, do you find in the check stub book there? A. The check stub as drawn was $58.85.

Q. Is that among the stubs which you say were torn out in June, 1909? A. Yes, sir.

Q. What was the amount of the check then drawn? A. $835.35.

Q. What was done with that money? A. $335.35 went to payroll, and $500 I handed to Mr. Daniel F. Cohalan.

Q. How do you know? A. I recall the amount of that payroll. The time book of that period shows it.

Q. Where is the time book? A. I think we have it here in evidence somewheres.

Q. Is it or is it not the fact that you made up this so-called false account —

Mr. Kresel.— May we have the time book?

Q. (Continuing) — from the entries in regard to which you have just testified? A. How is that question?

Q. I want to know whether there are any other entries in any of the books, check books, time books, or otherwise, in relation to any of the items which you say were inserted in this Cohalan memorandum account, in the back of your ledger? A. Well, I have just testified practically to all of them as they were carried out.

Q. And other than you have testified to, there is no record on your books? A. No, sir.

Mr. Guthrie.— That is all.

The Chairman.— Are you through with the witness?

Mr. Guthrie.— I am through.

Mr. Kresel.— There are a few questions that we want to put to him; shall we do it now or after recess?

The Chairman.— After recess. The Committee will adjourn to 2 o'clock.

Thereupon, at 12.40 p. m., the Committee adjourned, to meet at 2 p. m.

AFTERNOON SESSION.

2.15 P. M.

Appearances: Same as before.

The Chairman.— The Committee is ready to proceed. The Committee also requests that there will be no smoking in the room.

John A. Connolly recalled.

Re-direct examination continued:

By Mr. Guthrie:

Q. Are you now able to produce the time book which you referred to this morning? A. Yes, sir.

Q. Will you please produce it and refer to — (handing book to witness)? A. You have got the wrong one.

(Witness leaves stand and procures book.)

Q. Will you please refer to the time book under date of November 10, 1906, and state what the entry is in regard to the pay-roll? A. The pay-roll was made up as of November 9, 1906. That was Friday. And the total amount of pay-roll for that week November 10, 1906, was $305.35.

Q. You testified that the pay-roll amount was $335.55. How do you explain that? A. Why, possibly $30 drawn for petty cash or $30 that I took.

Q. That was the payroll that you intended to refer to, was it? A. Yes, sir.

Q. Have you now produced the ledgers after June, 1909? A. Yes, sir.

Q. About which you were interrogated this morning? A. Yes, sir.

Q. And they are now here? A. Yes, sir.

Q. Referring to the ledger before you this morning, will you please turn to folio 194 and state what account is at that folio?

(Mr. Chrystie passes book to witness.)

A. (After examining.) Legal expenses.

Q. From what date to what date? A. From May 31, 1904, to April 30, 1906.

Q. Do you find any entry under date of August 30, 1905, for legal services, and that was for what amount? A. (After examining book) August 30, cash, $250, legal expenses.

Q. Referring to exhibits 25 and 26 in this proceeding, is that item that you have just read from the ledger and the account of legal expenses — A. (Interrupting) Yes, sir.

Q. Does that refer to that entry ? A. Yes, sir.

Q. There are two entries directly preceding of $100 each. To what do they refer? A. (After examining book) Well, I recall the first one of August 1st.

Q. How much? A. $100.

Q. To whom was that paid? A. I believe it was paid to John M. Quinn, Quinn & Southard.

Q. Of what place? A. New York.

Q. For what? A. Why, for general advice, I think.

Q. To the company? A. To the company, yes, sir.

Q. Is there another item of $100 there? A. Yes, sir.

Q. To whom was that paid? A. I don't recall at the moment, Mr. Guthrie.

Q. What is the date of that? A. August 28.

Mr. Guthrie.— I offer the account in evidence.

Mr. Kresel.— We object to it; it isn't properly proven, incompetent and immaterial.

The Chairman.— That is the account, as I understand it, showing the different payments — showing the moneys were drawn out about the same time he stated he paid Judge Cohalan?

Mr. Guthrie.— No.

Mr. Jerome.— Legal expenses is the title of the account.

Mr. Guthrie.— You remember the statement of the respondent is that he was paid $4,000 during this period for legal service by Connolly. We now produce an account in the ledger for legal expenses in which this payment of $250, which has already been proved, is entered, but none of the others.

Mr. Kresel.—Are we bound by the manner in which they keep their books?

The Chairman.— No.

Mr. Kresel.— Suppose it had entered it as petty cash or merchandise, that wouldn't be any evidence against us.

Assemblyman Cuvillier.—As I understand, the idea is to show that Mr. Justice Cohalan was not exclusively the legal adviser. That is the idea?

Mr. Guthrie.—And that when they were paying for legal expenses they were entered in the ledger under that head?

The Chairman.—Well, of course that would be no proof that legal expenses had been paid. We will take it for what it is worth.

Mr. Guthrie.— I offer the account in evidence.

The Chairman.— I overrule the objection.

Mr. Guthrie — It avoids the necessity of asking him whether each one of those payments, or any of them appear.

The Chairman.— Objection overruled.

(Account marked Complainant's Exhibit 55.)

Mr. Guthrie.— I would like to offer in evidence the affidavits marked for identification this morning, which we delayed a ruling on, before our friends had an opportunity to read them.

Mr. Kresel.—We object to the introduction of these affidavits. They do not amount to anything. They are just a short resume of the story that Mr. Connolly related here on the witness stand, and does not corroborate it in any way. They are self-serving declarations. Every objection that could possibly be thought of could be raised by them.

Mr. Guthrie.—The only part of these affidavits — in these two affidavits, that I care about, except the fact that there were affidavits submitted to the Grievance Committee of the Bar Association, that fact we are entitled to prove.

Assemblyman Levy.— You have proved it, haven't you?

Mr. Guthrie.—The only statement in these two affidavits that I now offer in evidence, is the statement in regard to the copy of the alleged letter written by O'Hanlon, as to which the witness was cross examined by Mr. Stanchfield.

Assemblyman Levy.— Aren't you really anticipating the defense by this character of proof?

Mr. Guthrie.— No. If they object that these are irrelevant or incompetent, we won't press it, but the record must show that we offered to prove an affidavit made by this man on the 19th of May, 1913, in which that statement was made under oath.

The Chairman.— Let the record show that.

Mr. Jerome.— Take Mr. Guthrie's own opinion as a lawyer, ask him to state it, if he thinks it is competent, and we will stand on that opinion without objection. I bet he will say that it is not.

The Chairman.— What is there in there that you want on the record? The point is that the bringing in or putting in evidence of that affidavit, is merely a repetition of testimony already testified to on the record, and the only question is now what is there in there that is still of importance.

Assemblyman Cuvillier.— I understand you withdraw your offer of them.

Mr. Guthrie.— Yes, as a whole. All I want to put in on the record of these two affidavits is the following statement:

That the said O'Hanlon thereupon wrote out on a typewriter a letter addressed to Daniel F. Cohalan, setting forth this proposition and the said letter was mailed in the regular course of business and addressed to Daniel F. Cohalan, at his, then office, No. 271 Broadway.

" That deponent has no copy of said letter at the present time owing to the fact that in July, 1904, the deponent voluntarily gave to Cohalan the only copy in existence which had been made on one of the back pages of a letter press copy book."

The Chairman.— That is going far afield, to have a man make an affidavit.

Assemblyman Levy.— You don't seriously argue that is competent legal proof, do you, Mr. Guthrie?

Mr. Guthrie.— I am absolutely confident of it. I am absolutely confident that when counsel emphasizes in cross-examination, as Mr. Stanchfield did yesterday, that the witness was manufacturing that story now for the first time, it is competent to show that he made a statement under oath —

Assemblyman Levy.— Previously.

Mr. Guthrie.— Previously.

Assemblyman Levy.— You have done that.

Mr. Jerome.— That was not Mr. Stanchfield's contention. Mr. Stanchfield did not contend that he was manufacturing it for the first time. He contended that the witness and Scallon manufactured it long before they went to the Bar Association. Because a man has told the same story twice, then the previous one is a corroboration of the second one, if that is right as Mr. Guthrie contends, then the multiplicity of every liar's lies makes his testimony the stronger; the more he lies the stronger his testimony is.

The Chairman.— The Committee will consider that for what it is worth. Proceed.

Mr. Guthrie.— That is all.

The Chairman.— Anything else?

Mr. Guthrie.— That is all.

Cross-examination by Mr. Kresel:

Q. Mr. Connolly, this ledger which is marked Complainant's Exhibit 1, which you have been using this morning, is that one of the books which the sheriff seized? A. Yes, sir.

Q. At the same time he also seized the cash book of the Victor Heating Company current about that time? A. There were some books that I saved. I got there in the afternoon and saved what I could.

Q. Did he seize the cash book? A. He took —

Q. That is a plain question; did he seize the cash book? A. Why he —

Q. Yes or no. A. I do not think he did, of the current date.

Senator Wagner.— Fix the date.

Q. When was this levy, Mr. Connolly? A. I think it was February 28, 1910.

Q. February 28, 1910? A. Yes, sir.

Q. At that time this ledger about which we are talking was not the current ledger, was it? A. I don't believe it was.

Q. You know it was. The entries on this ledger were made 1906? A. Then there was another ledger.

Q. I say that was. A. Oh, yes, the current ledgers are here now.

Q. Just answer my question. This ledger about which we are talking now was not the current ledger in February, 1910, was it? A. No, sir.

Q. And at that time you also had a cash book, didn't you, covering the same period that this particular ledger covers? A. In all probability, yes.

Q. And you also had a day book or journal, whichever you called it, covering the same period? A. Yes.

Q. But the sheriff seized that cash book and that journal or day book? A. He took everything he could get his hands on. That is, the marshal evicted the sheriff.

Q. Whichever one it was, he took that cash book and that journal I have mentioned. Is that correct? A. I am not sure what he took. I know what I tried to save. I tried to save the current books of the company when I got there in the afternoon.

Q. I did not ask you what you tried to save. Didn't he take it at the same time he took this ledger you now produce; didn't

he also take the cash book or day book and the journal covering the same period? A. He probably did.

Q. You succeeded only in recovering this ledger and not the cash book or journal, did you? A. That is about all.

Q. You did not succeed in recovering the cash book and journal? A. I did not succeed in it to the best of my recollection.

Q. Look at this account about which you have testified, pages 36 and 37. You notice that in front of each entry there is a figure there? A. Yes.

Q. A column of figures? A. Yes.

Q. That 3, for instance, in the first entry on page 36 refers to the folio in the day book, doesn't it? A. In all probability it does.

Q. You know enough about your own books to be able to tell that? A. It refers to either the cash book or the journal.

Q. The cash book or the journal. Are you sure it was the journal? A. I am not sure.

Q. You are not sure? A. I am not a bookkeeper.

Q. Whichever book it was, whether cash book or journal, that book would show the real data for the expenditure made which is entered in the first ledger, wouldn't it? A. In all probability it would.

Q. In other words, the entries in the ledger are put there from the cash book or journal? A. That is as I understand it.

Q. So that if we had the cash book or the journal of that period there would be no question, would there, as to the purpose for which the check of $525 was drawn on October 29, 1904, would there? A. I don't suppose there would.

Q. If it was entered the entry would be there stating exactly the purpose for which that check was drawn, wouldn't it? A. In all probability it would.

Q. But strange enough, you recovered the ledger which doesn't tell anything, and didn't recover the cash book or journal, isn't that right? A. Well —

Q. (Interrupting) That is the size of it, isn't it? A. The size of it is this, I saved what books I could of the corporation, in fact I thought they were all out of my possession for six months.

Q. Now, this ledger was opened in 1904, wasn't it? A. I believe it was.

Q. Well, look at it and see if it wasn't. You testified so this morning? A. Yes, opened by Mr. Gaynor; I recall that.

Q. 1904? A. 1904.

Q. Did you make any entries in this book? A. None that I recall.

Q. Are you sure about that? A. Well, I don't think I did.

Q. Well, are you sufficiently familiar with this ledger to tell the Committee whether there are any entries there antedating 1904? A. There might be.

Q. There might be? A. Yes.

Q. Well, did you make any entries in this ledger antedating 1904? A. I don't recall any.

Q. Look at this interesting page, from which Mr. Cruikshank, you say, tore something, or cut something. (Counsel passes book to witness). Aren't those entries on the last page there, in red ink, in your handwriting? A. (After examining.) No, sir.

Q. They are not in your handwriting? A. They are not in my handwriting.

Q. Whose handwriting are they in? A. Why, Mr. Wylie's, may be; it looks like Mr. Gaynor's handwriting, or Mr. Wylie's I am not sure.

Q. Don't you know Mr. Wylie's handwriting to be able to testify whether that is his handwriting? A. Well, you can make a comparison of it.

Q. Well, you make the comparison. You have seen the handwriting? A. It looks like Mr. Gaynor's handwriting.

Q. It isn't Mr. Wylie's handwriting then? A. I can't swear to that, I don't think it is; I think it is — this party here has better handwriting than Mr. Wylie.

Q. You say now that in your opinion that is not the handwriting of Mr. Wylie?

Assemblyman Levy.— Indicate the page number on the record.

Mr. Kresel.— Well, it is the last page in the book, half of which seems to have been cut from it.

Q. Now, what do you say, Mr. Connolly; is that, in your opinion, Mr. Wylie's handwriting? A. It is either Mr. Wylie's or Mr. Gaynor's, to the best of my recollection.

Q. In your opinion, their handwriting is so much alike that you can't tell them apart? A. No, I didn't say that.

Q. Well, you have seen Mr. Wylie write repeatedly, haven't you, during the years that he was your bookkeeper? A. Yes, and I never saw him — I don't think that he is — I don't think it is as good a hand as that.

Q. But one thing you are certain of, and that is that it isn't your handwriting? A. I don't believe it is.

Q. Well, don't you know your own handwriting? A. (Interrupting) I assume that I do.

Q. Now, please be careful about it, because I think you are mistaken. Look at it carefully. Isn't that your handwriting? A. I am not mistaken.

Q. Then you are sure it is not your handwriting? A. I am practically sure that it is not my handwriting.

Q. Well, aren't you really sure, not practically sure, but aren't you sure that it isn't your handwriting? A. Why, I would say that it wasn't my handwriting.

Q. You so swear, that it wasn't your handwriting? A. Yes.

Q. You are swearing now that it isn't your handwriting, aren't you? A. Yes.

Q. That account begins with an entry of May 17, 1900, doesn't it? A. Yes, sir.

Q. And it is all in red ink, isn't it? A. Yes, sir.

Q. Are there any other accounts in this book which are in red ink? A. None that I know of.

Q. None that you know of? A. No.

Q. When did you first see this account in red ink? A. That I could not tell you.

Q. Well, did you know that account was in there when you handed the ledger to the gentlemen of the Bar Association, as evidence? A. Why, it must have been in there.

Q. You knew it was there, didn't you? A. I had an idea that it was there.

Q. Were you asked about it at all? A. Nobody has asked me about it.

Q. This is the first time you have been questioned about it? A. I believe so.

Q. And you say now, do you, that you didn't write the entries on the last page in red ink? A. I don't believe I did.

Q. Aren't you sure you didn't? A. Well, now, you asked me that before.

Q. Well, I will ask you that again? A. I don't think I did.

Q. Aren't you sure you did not? A. Didn't I tell you a moment ago that it is not my handwriting?

Q. Won't you say now you are sure you didn't write these entries? A. I didn't write those entries, there was no occasion for my writing entries.

Q. Now, you have testified about a commission account on page 186 here (showing book to witness). The entries appearing on the commission accounts are payments for commissions, payments made by the Victor Heating Company, aren't they? A. Yes, sir.

Q. Is there any entry under the heading "Commissions" there, referring to Daniel F. Cohalan? A. I would have to look under the dates (examining book).

Q. Does the name "Cohalan" appear in any of those entries? A. No.

Q. You say that the entry under date of October 29, 1904, are $525 — A. That is over in salary accounts.

Q. That is over in salary accounts (turning pages of book for witness), that that was a check drawn, $500 of which went to Cohalan? A. Yes, sir.

Q. There is nothing in the entry connecting Cohalan with it, is there? A. No, sir.

Q. The cash book might have shown it? A. The cash book would not show it.

Q. Would the journal show it? A. I don't believe so.

Q. Would not the entry in the cash book or journal to which the folio 29 refers, show to whom that was paid? A. It would show that it was paid to me as salary account, I should say.

Q. Well now, you directed these entries to be made in the salary account? A. Yes, sir.

Q. And the entry of October 29th, of $525, is false, isn't it, it was not paid to you as salary? A. It was at that time, it was charged as salary.

Q. I didn't ask you how it was charged. Was it paid to you as salary? A. Why, no.

Q. So then the entry is false, isn't it? A. It was intended for Mr. Cohalan.

Q. Won't you answer my question: that entry is false, isn't it? A. Well, put it that way, for the purposes —

Q. Not put it in any way, just answer that question. That entry is false, isn't it? A. It is carried as a salary account.

Q. I didn't ask you how it is carried. Is not the entry of that $525 was paid to John A. Connolly for salary, false? A. I didn't get the benefit of it.

The Chairman.— You understand his question?

The Witness.— I understand his question.

The Chairman.— Well, answer it. We are just filling the record up here with something that amounts to nothing.

A. It was practically false.

Q. Wasn't it false, not practically false, wasn't it false? A. It was intended to conceal a transaction.

Assemblyman Cuvillier.— Yes or no.

The Witness.— Yes or no; you want me to answer yes or no?

Assemblyman Cuvillier.— Yes.

The Witness.— Why, it was false.

Q. That same thing is true of the entries under date of December 7th, $225, that was false, wasn't it? A. Well, part of it was.

Q. Well, wasn't it false, that $225 was paid to you on December 7th as salary? A. Yes, in fact $25 of it —

Q. That is all. A. (Interrupting) $25 might have gone to salary, you know; there is different amounts there.

Q. Now, turning again to the cash account, the only entries in that that you say have reference to Cohalan at all are the entries under date of July 20th, $190 — follow me please, see if I am correct — that is the first entry; is that correct? A. Yes.

Q. The entry of $380 under date of April 21st, is that correct? A. Where is that, put your hand on it.

Q. Here? A. That is correct.

Q. The entry of $630 under date of May 22nd, is that correct? A. Yes, sir.

Q. And the entry of $1,000 under date of August 2d, is that correct? A. Yes, sir.

Q. Are there any other entries in that commission account on pages 186 and 187 of this book which you say have any reference at all to Cohalan? (Mr. Kellogg examines book with witness and counsel.) A. Possibly the transfer.

Q. You are referring to the entry under date of March 3, 1905, transfer $1,183, is that the one? A. Yes, sir.

Q. Aside from these, are there any other entries that refer in any way to Cohalan? A. Payable to him? I don't see any more, Mr. Kresel.

Q. And you don't know of any more? A. I don't recall any either.

Q. Well now, take the entry under date of October 10, 1904, under commissions, $110, to whom was that paid? A. I cannot refer at the moment, I cannot recollect it.

Q. I refer you to the entry? A. Beg pardon, what is the date?

Q. Look at it? A. That is better.

Q. October 10, 1910 (handing book to witness).

The Chairman.— What year, Mr. Kresel?

Mr. Kresel.— 1904.

A. I cannot recall it.

Q. Of course if you had the cash book and paid $25 of it just referred to here, you could tell, couldn't you? A. It might be the true purpose was concealed even in the cash book.

Q. Well, tell me this, here is another entry under date of April 8, 1905, $250. Had not that something to do with Daniel F. Cohalan? A. I don't believe it had.

Q. How do you know it had not, was there anything about these other payments that does not connect Cohalan with the other entries that do connect Cohalan? A. When I paid a man large sums of money, I could recollect it distinctly.

Q. Well, $250 is larger than $190, and here you say $190 was paid to Cohalan, and the $250, you don't know to whom it was paid? A. Well, we will get at it slow and deliberate, it was paid — what date is it, April 8, 1905? Let me think. It possibly may have had something to do with O'Hanlon.

Q. I didn't ask you what possibly might be. A. I do not say that it was paid to Mr. Cohalan. I don't recall at the moment what it was paid for or to.

Q. I want to ask you, Mr. Connolly, you have produced that account, you claim that that corroborates your testimony — A. (interrupting) I am not claiming.

Q. One moment, won't you please permit me to finish. A. I will, yes. I beg your pardon.

Q. You produced that ledger, and you claim that those entries in that account corroborate your story that on the dates mentioned you made certain payments to Cohalan. Now I want you to point out to this committee anything in those entries which in any way refers to Cohalan rather than to anybody else? A. I can't do it.

Q. There is not anything, is there? A. No, sir, not in the book.

Q. Is not the same true of the entries you have pointed out in the salary account? A. Yes, sir.

Q. Now, you pointed to the transfer of $1,183, under date of March 3d. How do you say that has any reference to Cohalan or to payments made to him? A. What is that?

Q. Explain that item. A. Why, I cannot recall.

Q. But you pointed to it as one of the items. What is there about it? A. It is possible, somebody suggested it should not be — this should be charged to salary account, or something, and it was put right where it belonged.

Q. You mean to say that the entry transferring $1,183 means that that sum was transferred from some other account into the commission account, is that what you mean? A. To the best of my recollection.

Q. To the best of your recollection? A. Yes, sir.

Q. Do you claim in that $1,183 was included some of the items which you say were paid Cohalan, and as charged to salary? A. If it was a transfer of the salary, of the $525, or something like that, it may have been included.

Q. Do you know whether it was a transfer of salary? A. I cannot recall it; the man that did it possibly might think of it better than I could.

Q. Then you say now that you don't know that this item of $1,183 has anything to do with Cohalan whatsoever, don't you? A. I don't recall that it has.

Q. You don't recall that it has? A. No.

Q. Don't you recall testifying before the Bar Association that in that $1,183 was included the first three payments that you made to Cohalan, amounting to $885? A. It may have.

Q. Didn't you so testify? A. The record will show.

Q. You have no recollection of it? A. I don't recall it.

Q. You don't recall that, and you testified in June, didn't you? A. Yes.

Q. You can't recall what you testified in June but yet you can tell us by the hour all the conversations that you had with Cohalan in 1909, can't you? A. They made a deep impression upon me.

Q. A very deep impression, but what you testified before the Bar Association you cannot now recall, though only a month ago? A. I don't recall it at the moment.

Q. Now, let me ask you is that entire $1,183 made up of payments you made to Cohalan? A. I don't believe it is.

Q. You don't believe it is? Now, what is the difference made up of? A. I could not tell you.

Q. You could not tell me? You don't know anything about it at all? A. I know something about, I believe —

Q. Is not the first $500 that you claim to have paid Cohalan in that $1,183? A. It may be.

Q. Isn't it? A. It may be; I am not sure.

Q. Well, was not that first entered in salary? A. In all probabilities it was.

Q. And didn't you testify that that was subsequently transferred into commissions? A. Well, it says transfer there, and it may be — it may come in that method, I would have to give that some thought.

Q. But you don't know now? A. Why, I don't recall; I don't recall figures in that way.

Mr. Kresel.— That is all.

The Chairman.— All right — Is that all?

Mr. Guthrie.— That is all.

The Chairman.— Next witness.

Assemblyman Cuvillier.— I wish to ask the witness a question.

By Assemblyman Cuvillier:

Q. Mr. Connolly, this is a very delicate question, but I think the Committee ought to know something about it. You say you were in the year 1882 in the month of February committed to the Poughkeepsie Insane Asylum? A. Yes, sir.

Q. Were you legally committed? A. Yes.

Q. And how long were you there? A. I think about six months.

Q. Were you paroled or discharged cured? A. As I recall it, I was discharged as cured.

Q. Do you know the nature of your illness at that time? A. I did not until afterwards when I made a study of it.

Q. Did anyone tell you or any physician at the hospital tell you the nature of your illness? A. (No answer.)

The Chairman.— That is all.

Assemblyman Cuvillier.— No. No, I want an answer, Mr. Chairman.

The Witness.— Did anybody what?

Q. Did any physician tell you the nature of your illness? A. Mr. Cuvillier, it made a strong impression on my mind. I was committed to the Hudson River State Hospital, I believe that is the softer term. You can call it the Lunatic Asylum or anything that you may desire. You may call it the Hospital for the Insane. All I know is that on May 30th I came out of a trance and I was sitting in a window looking out on the Hudson River and I asked where I was, and I can recall all the gentlemen, all the orderlies, I can recall every one of their names now, and they told me — I can tell about old Dr. Kellogg and the conversations he had with me. I can recall Dr. Langdon.

Q. I don't want that.

Assemblyman Levy.— Let him alone.

The Chairman.— Let him finish.

The Witness.— I can recall Dr. Langdon. I can recall my poor father and mother calling upon me and I desire to get — and I know I had a beautiful time from June and July and August when I was discharged as cured. I was sent there on business years afterwards and I visited Dr. Cleveland and I dined with him and I have met other people. I have kept up the acquaintanceship and I have visited there at different times. I know all about the heating and ventilating system and all I have got to say now is that I thank God that my mind was restored.

The Chairman.— Next witness.

Assemblyman Weil.— Just one question.

By Assemblyman Weil:

Q. I want to know whether your salary as president of the Victor Heating Company was fixed by the corporation? A. Always.

Q. What was it? A. It started at $20 and went up to 27 and 30, it went up to 45 and went to 100, it was reduced to 50.

Q. A week? A. Yes, a week.

Q. Would that appear in the minutes of the corporation? A. By all means.

Q. The salaries were fixed at a meeting of the Board of Directors? A. Always.

Q. I would like to see that record? A. It is in the minute book.

The Chairman.— Next witness. All right, you are excused. Next witness.

Mr. Guthrie.— Mr. Wiley.

Charles G. Wiley, a witness, having been first duly sworn by the Chairman of the Committee, testified as follows:

The Chairman.— What is your first name?

The Witness.— Charles.

The Chairman.— Charles Wiley.

Assemblyman Levy.— Charles G.

Direct examination by Mr. Guthrie:

Q. What is your business, Mr. Wiley? A. Clerk.

Q. What is your age? A. 28.

Q. Where are you employed? A. Educational Exhibits Company.

Q. Where is its office? A. 51 Chambers street, New York.

Q. In 1903 where were you employed, in what business? A. I think I was with the John Stevenson Car Company, Elizabeth, New Jersey.

Q. And from there where did you go? A. To the Victor Heating Company.

Q. In what capacity? A. Clerk.

Q. When did you go? A. In the early part of January, 1905.

Q. 1905 or 1904? A. 1905 I think it was.

Q. 1905. And what if anything did you have to do with the books? A. Well, I kept the books.

Q. From that time on you kept the books? A. I did.

Q. Will you refer to the ledger in front of you and state whether the entries — until what time did you remain with the Victor Heating Company? A. Until the end of February, 1910.

Q. 1910? A. Yes, sir.

Q. Were you there when the concern failed? A. I was.

Q. Were you there when the sheriff seized the books? A. I was.

Q. Do you know of your own knowledge that the sheriff did seize the books of accounts? A. I do.

Q. And that he took them away? A. Well, I presume he took them away.

Q. But they were there when they took possession of the office? A. Yes, sir.

Q. Now, will you please state whether that is the first ledger upon which you worked? A. (Witness examines book.)

Q. Are the entries after January 19, 1905, in your handwriting? A. (After examining book.) Yes, sir.

Q. What books did the company keep in 1905? A. Ledger, journal, cash, time, cost, and regular letter books, and bill books.

Q. What bank accounts did it have? A. New York Produce Exchange Bank and the Colonial Bank.

Q. Are there any entries in that ledger prior to January, 1905 in your handwriting? A. Yes, sir.

Q. How do you explain that fact? A. Well, either the journal or the cash book was not posted up to date when I went into the company.

Q. And you then posted it? A. I then posted them up to date.

Q. Now, you continued to work on or to keep that ledger until what date? A. (Witness examines book.)

Q. As near as you can recollect? A. (After examining book.) Around about the 1st of May, 1906.

Q. The 1st of May, 1906? A. Yes, sir.

Q. Was a new set of books then opened? A. It was.

Q. Was there any reason that you know why that new set of books was opened in 1906?

Mr. Kresel.— One minute. I object to that.

Mr. Guthrie.—All right; we won't press it.

Q. But a new set of books was opened in 1906? A. It was.

Q. And you kept those books? A. I did.

Q. How long did they remain in use? A. Oh, up to around about the 1st of May or June, 1909.

Q. Was a new set of books then opened? A. It was.

Q. Now, referring to this set of books that was in use up to May or June, 1909, the second set of books, where were those books when you last saw them? A. Well, they were in the hands of the sheriff or the marshal, whoever had the power to hold them.

Q. Under whose direction did you keep the books? A. Mr. Connolly's.

Q. There has been some inquiry this morning in regard to an item in the commission account of $1,183. Will you kindly refer to the commission account and state whether you have any recollection in regard to that item? A. (After examining book) That is a journal entry. What it was for I can't now recall.

Q. Is there any — your books were kept by double entry? A. Yes, sir.

Q. What is the corresponding entry on the other side in some account in that ledger, can you find it? A. (Witness examines book).

Mr. Kresel.— He says he doesn't know. How can he find it?

Mr. Guthrie.— The books couldn't balance if there wasn't a corresponding entry or entries.

The Witness.— There is a credit entry on John A. Connolly's salary account at folio 38.

Q. Of the same amount? A. The same amount.

Q. And that represents the transfer of the $1,183 on that date from salary account to commission account? A. Yes, sir.

Q. And what was that date? A. That was March 3, 1905.

Q. Did you have any knowledge at the time as to the occasion or reason for that transfer other than instructions from Mr. Connolly? A. No, sir.

Q. It has been testified that at the end of that ledger there was an account. Do you recall such fact? A. An account?

Q. Turn back to the last page of that ledger? (Witness does as directed).

Q. You notice there that part of the page has been torn out? A. Yes, sir.

Q. Have you any knowledge of the existence at any time of an account there? A. A memorandum account, yes.

Q. There was a memorandum account there? A. There was, yes, sir.

Q. What was the heading of that account? A. Daniel F. Cohalan.

Q. And in that account were there entered in your handwriting items corresponding to the items which appear in complainant's — in the complainant's Exhibit No. 27? A. Yes, sir.

Q. And was that letter prepared from the account as it then existed? A. It was.

Q. When was that account written in there? A. Oh, a week or ten days before the date of that letter, I should judge.

Q. Then it was not an account that was kept in the regular course of business at the time the various items are alleged to have occurred? A. No, sir.

Q. How did you come to open such an account? A. Under orders from Mr. Connolly.

Q. Did you know where the items came from? A. I did not.

Q. You took no steps to find out? A. None at all.

Q. You kept them under Mr. Connolly's direction? A. I did.

Q. You wrote this letter of January 12, 1909, I mean you typewrote this letter of January 12, 1909? A. I did.

Q. Exhibit 27? A. I did.

Q. And did you take it and deliver it? A. I did.

Q. Where did you deliver it? A. No. 2 Rector street.

Q. And was that the office of the respondent Judge Cohalan? A. It was.

Q. Can you recall whether you handed it to him personally or not? A. No, sir.

Q. There has been some inquiry about a red ink account in the back of that book. What is the heading of that account? A. Consignments, memorandum.

Q. And in whose handwriting is that? A. I believe it is Mr. Philip B. Gaynor.

Q. Who was Mr. Philip B. Gaynor? A. A certified public accountant.

Q. Have you any knowledge as to how that account came to be entered or what it means? A. No, sir.

Q. Were there any consignments at or about that time to individuals to sell, that you know of? A. Well, we had received radiators and boilers on consignment that were at that time in our store and I think this account covers the value of those goods.

Q. Is there any book which would enable you to refresh your recollection upon that point as to what the actual consignments were? A. No, sir.

Q. Were your consignments of radiators for the Victor Heating Company to sell? A. That is the way I understand it.

Q. And as the Victor Heating Company had not bought them and they were merely consignments they would have no proper place in the regular entries? A. Exactly.

Q. Will you turn to folios 36 and 37, being the salary account of John A. Connolly, and state in whose handwriting those entries are? A. After what date?

Q. Begin with any date that you have personal knowledge of? A. December 1, 1904.

Q. Is that the first entry in your handwriting? A. Yes, sir.

Q. Are all the other entries in your handwriting? A. Yes, sir.

Q. Were those entries made in the regular course of business at or about the date that they bear, by you? A. They were.

Q. Turn to folio — to the commission account, 47 I think it is? A. Yes.

Q. What folio have you before you? A. 186 and 187.

Q. That is the commission account? A. Yes, sir.

Q. In whose handwriting are those entries? A. From December 2, 1904 on they are in my handwriting.

Q. Were they made similarly in the regular course of business at or about the time that they bear date? A. They were.

Q. Will you kindly turn to page 194. What account is that? A. Legal expenses.

Q. In whose handwriting is that? A. From entry January 12, 1905 on, they are in my handwriting.

Q. And were those entries similarly made by you in the regular course of business? A. They were.

Q. At or about their dates? A. Yes.

Q. I take it that you have no personal knowledge whatever of any alleged transactions between Mr. Connolly or the Victor Heating Company, and Judge Cohalan? A. I had not.

Q. Will you kindly refer to the letter book, personal No. 1, pages 496 and 497, being exhibits 21 and 22, in this proceeding, and state whether you have any knowledge with reference to the account purporting to have been copied there? A. It looks like statements that I made up.

Q. Can you recall when you made these statements up?

Mr. Kresel.— He did not say he made them.

Mr. Guthrie.— What?

Mr. Kresel.— He did not say he made them. He said it looks like statements he made up.

Q. Can you recall whether or not you made up and typewrote those statements? A. I cannot swear that I wrote them on the machine at that time.

Q. Have you any recollection of such a statement being copied in the book or a letter book? A. Yes, sir.

Q. And at about what date was that?

Mr. Kresel.— Don't look at the statement. If you remember, say so.

The Witness.— I cannot tell —

Mr. Kresel.— You cannot tell?

The Witness.— Unless I saw the date.

Q. You cannot tell? A. No, sir.

Q. Will it refresh your recollection if you look at the letter press of the statement? A. It will.

Q. Will you kindly do so. A. From this I should judge the statement was made on or about April, 1905.

Assemblyman Levy.— Repeat that answer please.

Q. That is your best recollection —

Assemblyman Levy.— Please repeat that answer.

(The answer was repeated by the stenographer as follows): "From this I should judge the statement was made on or about April, 1905."

Q. And that is your best recollection? A. Yes, sir.

Q. Have you any independent recollection? A. No, sir.

Q. Except from that memorandum? A. No, sir.

Q. But you do remember the fact that the statement was prepared and copied in the book or a letter book? A. Yes, sir.

Q. And to the best of your present recollection that is a copy of that statement? A. It is.

Q. Do you know what became of that statement? A. I did not.

Q. Do you recall preparing subsequently another statement showing the work that had been done upon the Bureau of Public Buildings and offices in the city of New York and the Department of Water Supply, Gas and Electricity? A. I do.

Q. When was that statement prepared ? A. I could not tell until I saw the statement.

Q. Will you kindly look at Exhibit 2 and see if that refreshes your recollection?

Assemblyman Cuvillier.— May I look at the letter press book before you get through with it?

(Mr. Guthrie hands same to Assemblyman Cuvillier.)

Q. Does that statement Exhibit 2 in any way refresh your recollection? A. It does.

Q. Did you prepare that statement? A. I did.

Q. From what data did you prepare it? A. From the cost books and the bill books.

Q. Of the Victor — A. Heating Company.

Q. Heating Company? A. Yes.

Q. What date did you do that? A. Around about January, 1906.

Q. January, 1906. What did you do? A. Gave it to Mr. Connolly after I had made it up.

Q. Did you typewrite that? A. I did.

Q. Those three pages? A. I did.

Q. You made the calculation upon that under directions from Mr. Connolly? A. Yes, sir.

Mr. Guthrie.— That is all.

Cross examination by Mr. Kresel:

Q. Mr. Wiley, you are quite friendly with Mr. Connolly. A. I am.

Q. Have you been doing any work for Mr. Connolly within the last six months? A. I have.

Q. You worked with him on this statement for the World, didn't you? A. I did.

Q. And did you do that in addition to your duties as an employee of the Educational Exhibits Company? A. I did.

Q. And you worked with Mr. Scallon, didn't you? A. No, sir.

Q. Ever meet Mr. Scallon? A. Not until after the Bar Association, I don't think.

Q. Where did you meet him? At the Bar Association? A. No, I met him in the World Building.

Q. In the World Building, that was before you went to the Bar Association? A. It may have been two or three days before, I don't know.

Q. Might have been two or three days. And Mr. Connolly took you there and introduced you to him? A. No, Mr. Scallon was in the room when I went there.

Q. Was Mr. Scallon alone or was Mr. Connolly there? A. Mr. Connolly was there also.

Q. You came to a room in the World Building and there you found Mr. Scallon and Mr. Connolly? A. Yes, sir.

Q. Do you remember the date when you appeared before the Bar Association; do you remember what date it was? A. No, I do not.

Q. Do you remember the month? A. June.

Q. June of this year? A. Yes.

Q. Do you remember what day of the week? A. Either Thursday or Friday.

Q. Did you appear there on more than one occasion? A. Yes, sir.

Q. How many times did you go there? A. Twice, but not both times before the committee.

Q. You went before the committee how many times? A. Once.

Q. And before you went before the committee you went there once again? A. No, after.

Q. After that? A. Yes.

Q. And so the first time you went to the Bar Association you went before the committee? A. Yes, sir.

Q. Before you appeared before the committee did you talk to anybody connected with the Bar Association? A. No, sir.

Q. You didn't. Had you told anybody connected with the Bar Association what you knew about this case before you were examined before the Grievance Committee? A. No, sir.

Q. Did you tell Mr. Connolly what you knew about the case? A. Did I tell him what I knew?

Q. Yes. A. He knew all that I did.

Q. Did you tell him all you know? A. Well, no. I did not talk to Mr. Connolly on the subject.

Q. You did not talk to Mr. Connolly at all about what you knew about this case, did you? A. No.

Q. At any time? A. No.

Q. At no time before you were examined before the Bar Association? A. No.

Q. Did you tell Mr. Scallon what you knew about this case before you were examined before the Bar Association? A. No, sir.

Q. So that you told nobody what you knew about this case before you were actually examined before the Grievance Committee of the Bar Association? A. No, sir.

Q. Is that correct? A. Yes, sir.

Q. Did you go to the World Building only once? A. No, sir.

Q. How many times did you go there? A. Off and on.

Q. How often? A. From the beginning, around January 12th or 13th.

Q. Beginning January 12th or 13th of this year? A. Of this year.

Q. And when did it end? A. I don't know when it ended.

Q. When were you there the last time? A. I don't know, unless I looked it up.

Q. You don't know unless you looked it up? A. No.

Q. Did you keep a record? A. I did.

Q. Have you the record with you? A. I have.

Q. Let me see it? A. It is a personal memorandum, a personal memorandum book.

Q. I won't inquire into your personal record. Look at it and tell me when you went there last? A. June 24th.

Q. Of this year? A. Of this year.

Q. And while you are looking at your record won't you tell me when your first visit occurred? A. I have not got that.

Q. You haven't that? A. Oh, the first visit to the World Building?

Q. Yes. A. January 13, 1913.

Q. You kept that record as a basis for your compensation for this work? A. I did.

Q. And are you paid by the day or by the week or by the month? A. I would go over there of a night after 5 o'clock. If I worked three or four hours I would charge $2 for it; if I worked five and one-half hours, $2.

Q. Two dollars an hour or for four hours? A. Two dollars an evening.

Q. Two dollars an evening. What salary are you getting with the Educational Exhibits? A. Twelve dollars a week.

Q. Twelve dollars a week, and what is your job there? A. Oh, general clerk; office man.

Q. You have collected money from the New York World, have you? A. No, sir.

Q. Who has paid you? A. Mr. Connolly.

Assemblyman Cuvillier.— Mr. who?

Mr. Kresel.— Mr. Connolly.

Q. You mean John A. Connolly? A. Yes, sir.

Assemblyman Levy.— He does what?

Mr. Kresel.— He has been paying him.

Q. Has he been paying you in cash or by check? A. Cash.

Q. You must look out for Connolly paying cash, you know. When was the last time he paid you in cash and how much? A. May I look again?

Q. Certainly. A. June 28th.

Q. Keep your record open because we may have cause to use it again. How much did you get from Mr. Connolly on June 28th? A. $7.

Q. You have worked there almost every night, haven't you, between the 13th of January and the 24th of June? A. Oh, no.

Q. How many nights have you worked there? A. Oh, around about thirty nights.

Q. About thirty nights? A. About thirty nights and of a Saturday night. Thirty times in all.

Q. Look at your little book. How much money have you received from Connolly for these thirty nights and one afternoon? A. $44.

Q. $44? That is a little less than a dollar an hour.

The Witness.— Some nights I would only work an hour and a half and I wouldn't charge for that.

Assemblyman Levy.— I would like to ask the witness a question.

Mr. Kresel.—All right.

By Assemblyman Levy:

Q. When you were making these charges did you know Mr. Connolly was to receive $10,000 ultimately? A. I did not. (Laughter).

Q. Now you assisted Mr. Connolly and Mr. Scallon in getting at the story which was subsequently printed in the newspaper? A. Not Mr. Scallon.

Q. You assisted Mr. Connolly then? A. Yes, not knowingly.

Q. Not knowingly? A. Yes, sir.

Q. He didn't tell you what he was — he was going to do with the data that you were supplying? A. He didn't.

Q. Well, do you mean to tell the Committee that you at no time between the 13th of January and the 24th of July, collaborated with Mr. Scallon? A. No, sir.

Q. You know what I mean by collaborated? A. Yes, sir.

Q. Worked together with him? A. I never worked with Mr. Scallon.

Q. On this occasion that you told us about, when you came to a room in the World Building and met Mr. Scallon and Mr. Connolly did you talk with Mr. Scallon? A. Just gave the time of day.

Q. Didn't he ask you what you knew about Connolly's books? A. He did not, no, sir.

Q. Didn't you go over the facts with him at all? A. No, sir.

Q. At no time? A. No, sir.

Q. With whom did you work on the books, for instance, Mr. Connolly? A. Mr. Connolly.

Q. Just with Mr. Connolly? A. Yes, sir.

Q. And all the work you did was done at the World Building? A. It was.

Q. In a room set aside for Mr. Connolly? A. Yes, sir.

Q. He had a special room there? A. He did.

Q. What floor was it on? A. Seventh floor.

Q. And he had the use of a stenographer, did he not? A. Not while I was there.

A. Not while you were there? A. No, sir.

Q. Well, now, of course you told Mr. Connolly that you knew about this last statement that was shown to you, Complainant's Exhibit 2? A. Yes, sir, I did.

Q. You told him that you remember writing that? A. Yes, sir.

Q. Is there anything particular on this statement which recalls it to your mind of all the statements which you ever drew, fixed it in your mind so that you can now swear that you drew that? A. (Witness examines paper) Oh, well, the mere fact of it being a statement of the amount of work received from the two city departments, fixes it in my mind.

Q. That is the thing that fixes it in your mind, is it? A. Yes, sir.

Q. And you also remember now, don't you, writing that other statement which is copied in the back of the letter-book, do you? A. Yes, sir.

Q. Well, you knew all that for the past five or six months, didn't you, that you had drawn these two statements? A. I knew it, yes.

Q. You talked with Mr. Connolly about it, didn't you? A. No.

Q. Didn't Connolly ask you at any time whether you ever drew

these two statements? A. Mr. Connolly did after I appeared before the Bar Association.

Assemblyman Levy.— Louder, Mr. Wylie, please. We don't hear you. What is that answer?

(The stenographer thereupon read the answer referred to as follows: "Mr. Connolly did after I appeared before the Bar Association.")

Q. Prior to that you had no talk with him about it? A. No, sir.

Q. Was this statement Plaintiff's Exhibit 2, shown you before the Bar Association? A. That is a three page statement?

Q. Yes. A. Yes, sir.

Q. It was shown to you? A. Yes sir.

Q. By Mr. Chrystie? A. I believe it was.

Q. And did you tell him then that you remember drawing that? A. I must have.

Q. Well, didn't you? A. I must have.

Q. Don't you remember telling him that? A. I drew it.

Q. Don't you remember telling Mr. Chrystie that you drew this statement, Exhibit 2? A. Yes.

Q. All right. And the only talk that you had with Mr. Chrystie was before the Grievance Committee, wasn't it? A. Yes, sir.

Q. When you were testifying? A. Yes, sir.

Q. I noticed that your testimony before the Grievance Committee doesn't say a word about this statement, Exhibit 2. Can you explain how it is that part of it was omitted from your testimony? A. It doesn't?

Q. It does not. A. Well, then, the statement could not have been brought to me at that time; it must have been brought at another time.

Q. So that now you say that it wasn't shown you before the Grievance Committee? A. The statement was brought to me while I was at the Bar Association, and when I was answering your questions, I thought it was before the Committee.

Q. Well, whenever it was shown to you before the Committee, you told them that you drew that statement? A. Yes.

Q. Didn't you? A. Yes.

Q. And did you tell them that you also drew the statement

which is copied in the back of the letter book? A. I don't think that was shown to me.

Q. You don't think that was shown to you? A. No, I am not sure of that.

Q. But, now, you are quite sure, now that it is shown to you, you are quite sure that you did draw that statement? A. That I made the figures for it, yes.

Assemblyman Levy.— Refer to it by exhibit number, Mr. Kresel.

Mr. Kresel.— Exhibit 21.

Q. You are quite sure now that you did draw that statement, Exhibit 21? A. If by drawing, you mean getting out the figures, yes.

Q. I mean typewriting it? A. No, I don't know whether I typewrote it or not.

Q. Did you copy it? A. I don't even know that.

Q. Well, then, what do you know about this statement? A. I know that I drew the figures for it.

Q. Well, how do you know that you drew the figures for it? A. Because I must have; I got out all those statements.

Q. How many statements did you get up? A. I can't tell.

Q. Six? A. I can't tell.

Q. A dozen? A. I couldn't tell you that, either.

Q. Was it less than a dozen? A. I couldn't tell you.

Assemblyman Cuvillier.— One question, Mr. Chairman.

By Assemblyman Cuvillier:

Q. Were you promised by Connolly or anyone, for testifying here today any pay or any consideration? A. Well, I was as much as told that I would receive a salary and expenses.

Q. How much salary? A. It was never settled.

By Mr. Kresel:

Q. Well now, you have testified about an item of commissions under date of March 3, 1905, $1,183, transfer? A. Yes, sir.

Q. Do you know what was contained in that transfer? A. Not now, no sir.

Q. Do you know what items enter into that transfer? A. No, sir.

Q. You were asked about that letter, which you delivered to Judge Cohalan, you remember? A. Yes, sir.

Q. Did you write that letter? A. On the machine, yes.

Q. Yes, you typewrote it? A. I did.

Q. At Mr. Connolly's dictation? A. Yes, sir.

Q. Well, did Mr. Connolly give you the figures which are contained in that letter? A. He did.

Q. Did he have a memorandum from which he read those figures to you? A. I think I did.

Q. You think he did? A. Yes.

Q. Well, those are the figures that are supposed to have been on that last page in the ledger, which is torn out? A. They were.

Q. The page in that ledger had not been torn out on the day when you wrote the letter, had it? A. Had not been, no, because the account was there.

Q. Now, it had been put on the books only a week or ten days, as you testified, before the date of writing? A. As I remember it, yes.

Q. And you testified that you put that on the books at the direction of Mr. Connolly? A. I did.

Q. John A. Connolly? (Pointing.) A. Yes, sir.

Q. And did he give you the figures to put on the book? A. He must have.

Q. Well, don't you remember that he did? A. Well, he did.

Q. And did he give you a memorandum containing those figures that you copied, into the book? A. Well, I don't know whether it was a memorandum or he told me what to put in without it.

Q. Do you know a gentleman named William Berrigan? A. Yes, sir.

Q. A lawyer? A. I don't think he is a lawyer.

Q. Do you know where his office is? A. 38 Park Row.

Q. You have been in his office? A. I have.

Q. Lately? A. Yes, sir; within the last week or ten days.

Q. You are quite friendly with Mr. Berrigan? A. I am.

Q. Do you remember when the Victor Heating Company went out of business? A. I do.

Q. When was it? A. February the 28th, 1910.

Q. Did you make up any statement for Mr. Connolly at the time when the business was wound up? A. Yes, sir.

Q. Did you make up a statement for him containing two lists

of names, one a list of people from whom he could borrow money, and another list of people from whom he could not borrow any money? A. I did at one time, I don't —

Q. Was not that about the time when the Victor Heating Company was closed down? A. It was before, I guess.

Q. Very shortly before? A. Well, I cannot say, I remember making up that list.

Q. Did Mr. Connolly ask you to make that up? A. He must have.

Q. And did you give it to him after you wrote it out? A. Yes, sir.

Q. Whatever entries you made in the books, you made at the express direction of Mr. John A. Connolly, did you not? A. Yes, sir.

Q. All of the entries in the ledger just now before you? A. All special entries. Regular work, of course, I would not need to consult Mr. Connolly.

Q. Well, when you made an entry under March 3, 1905, transfer $1,183, you made that at his express direction? A. Yes, sir.

Q. When you entered in your ledger under date of December 2, 1905, $225, in the salary account, you did that at his express direction? A. If the account was there, yes, sir.

Q. Look at it and see if it is (handing book to witness)? A. December what?

Q. December 6th. A. For what amount?

Q. 1905, salary (examining book). A. $225.

Q. Yes. A. Yes, sir.

Q. When you wrote under "Commissions, under date of January 20, 1905, $190," that was at his express direction, wasn't it? A. Yes, sir.

Q. When you wrote in the same account under date of April 21, 1905, $380, that was at his express direction? A. Yes, sir.

Q. And the entry under date of May 22nd, $630, that was written at his express direction? A. Yes, sir.

Q. And the item under date of August 2, 1905, $1,000, that was written at his express direction? A. Yes, sir.

Mr. Kresel.— That is all.

The Chairman.—Any questions?

Mr. Guthrie.—Yes.

By Mr. Guthrie:

Q. Mr. Wylie, you testified that some promise was made by somebody to pay you a salary, who was that? A. Mr. John A. Connolly.

Q. You said something about somebody promising to pay your expenses? A. The same gentleman.

The Chairman.— Call the next witness.

Mr. Quinn.— May I ask the witness one question?

The Chairman.—Yes.

Mr. Quinn.— If the Chairman will permit, just for a second or two.

By Mr. Quinn:

Q. I call your attention, Mr. Wylie, to your testimony or your statement, you were not under oath, before the Bar Association? A. No, sir.

Q. Who examined you? A. Mr. Chrystie.

Q. Did you make this answer to this question put by Mr. Chrystie, and I am reading from the bottom of page 8, referring to the account in the ledger that was in evidence or offered before the Bar Association: "Now I call your attention to the fact that the name of Daniel F. Cohalan does not appear in the index, can you explain? A. No. It might have been omitted by me. I might have neglected to index it." Did Mr. Connolly talk to you about indexing that or not? A. I don't recall.

Q. Now, I read from printed page No. 99 in your statement before the Bar Association Committee, in the course of your examination by Mr. Chrystie, in which this question was asked and this answer made: "Q. When did you first learn that these books had been mutilated in this way? A. Mr. Connolly showed it to me." Did you make that answer? A. I did.

Mr. Quinn.— I presume it will be conceded that that fact was not followed up, and the witness was not further interrogated as to when he discovered or looked at it, that will be conceded as a matter of fact.

Mr. Guthrie.— I think you better put his whole testimony in.

Mr. Quinn.—Well, you don't contend that it was, do you?

Mr. Guthrie.— Put it all in.

Mr. Quinn.—Won't you concede that that question remained unanswered, Mr. Guthrie?

Mr. Guthrie.— I have answered you, Mr. Quinn.

Mr. Quinn.— Then I will ask the witness to look at his testimony, and see whether that question, namely:

Q. "Q. When did you first learn that these books had been mutilated in this way," and the answer, "Mr. Connolly showed it to me." Whether that question was ever answered by you, and whether there was any — whether Mr. Chrystie elicited that fact? (Volume of testimony handed witness.) A. It seems to me —

Q. Just look at your testimony, it is only four pages? A. It was asked me, yes —

Q. Looking at it, at the printed copy of your statement to the Bar Association? A. I have.

Q. Were you ever asked to answer that question, namely, "When did you first learn that these books had been mutilated in that way," and did you ever answer it to Mr. Chrystie or the Committee, after refreshing your recollection, by looking at the printed record? Answer me that, were you ever asked to answer that question, did you ever answer it?

Mr. Guthrie.— The record shows that he did.

Mr. Quinn.— He did not.

Mr. Guthrie.— The record says, "Mr. Connolly showed it to me."

Mr. Quinn.— Let the witness answer me, Mr. Guthrie; I am not asking you.

The Chairman.— What is your answer, Mr. Wylie?

Q. Did you ever make any answer other than this, "Mr. Connolly showed it to me." After refreshing your recollection from reading this printed book, was that the only answer you made? A. I think it was.

Q. Did Mr. Chrystie ask you when Connolly showed it to you? A. Well, I know I answered a question there.

Q. Did he ask you when Mr. Connolly showed it to you? A. I can't recall whether he did or not.

Q. Well, look at the testimony, the printed copy, and see

whether he did, after refreshing your recollection from that. A. This testimony does not show it.

Q. That testimony does not show it? A. Yes.

Mr. Quinn.— Will it be conceded, Mr. Guthrie, that in the findings of the Grievance Committee that they made no allusion to the time or the fact of the mutilation of that book?

Mr. Guthrie.— The findings are before the Committee and state for themselves.

Mr. Quinn.— You decline to make that concession?

Mr. Guthrie.— I think it is wasting time to ask for such a thing.

Mr. Quinn.— I don't think it is wasting time. I think it is very important.

The Chairman.— We are wasting time here; let us get along now.

By Mr. Guthrie:

Q. Now, Mr. Wylie, I understand you stated before the Bar Association, that Mr. Connolly showed you the books in their mutilated condition? A. Yes, sir.

Q. When did he show the books in their mutilated condition? A. At that time, at the Bar Association.

Q. Had you seen them before? A. No, sir.

Mr. Guthrie.— I would like to offer in evidence the deposition or statement of the witness before the Bar Association as to which he has been examined by Mr. Quinn.

Mr. Kresel.— I object to that upon the same grounds that we objected to the statement of Mr. Connolly. It applies with even greater force to this witness.

The Chairman.— Is there any particular weight to be attached to that deposition?

Mr. Guthrie.— I think that after such a cross-examination of the witness, we are entitled to show that he had been examined as to part of a statement. We are entitled to go into the whole of it.

Assemblyman Levy.— Don't you show that, Mr. Guthrie, by the witness' statement that he has not seen these mutilated books?

Mr. Guthrie.— We may have shown that fact independently, but we are entitled to put in this whole statement which counsel has referred to in regard to which counsel has cross-examined the witness.

The Chairman.— How much of that statement is there?

Mr. Stanchfield.— If the Chairman please, just a moment. That statement is not accurate or correct. They tendered this witness. Now, if there is anything in that record that tends to contradict him, they would not be permitted to show that, because they would be contradicting their own witness.

Assemblyman Levy.— Impeaching their own witness.

Mr. Stanchfield.— Certainly. Now, upon the question of proof. If there is anything in that statement that is a statement as to what was said, the only way they can put it in is to supplement it.

Mr. Guthrie.— I think the Court of Appeals has settled that —

Mr. Stanchfield (interrupting).— Well, produce the Court of Appeals.

Mr. Guthrie.—Well, I will go into it, which I think is elementary law. In 178 New York, Judge Werner, writing the opinion, says: "Counsel having interrogated as to part of a statement made by a witness, was allowed to put in the whole of the statement."

Assemblyman Goldberg.— That probably was under oath.

Mr. Guthrie.— The principle was the same.

Mr. Stanchfield.— Let me see that case a minute.

Mr. Guthrie.— Let me read you what the leading authority on criminal law in examination of witnesses says: "In all cases where a witness testifies to part of a conversation on his direct examination, the other side must be permitted on cross-examination to bring out the entire conversation so far as it is relevant to the facts at issue.

Assemblyman Levy.—Are you reading from Wharton, Mr. Guthrie?

Mr. Guthrie.— No, I am reading from Underhill.

Assemblyman Cuvillier.— Mr. Guthrie, this is your own witness.

Mr. Guthrie.— That doesn't make any difference.

Assemblyman Cuvillier.—You are not cross-examining him at all. You are redirect in your examination after the cross-examination.

Mr. Guthrie.— Let me read you what Judge Van Brunt says in a case: "The counsel for the plaintiff in his cross-examination having asked the witness as to the statements made by him before the coroner, the counsel for the defendant had the right to show to the jury what was the whole statement of the witness before the coroner upon the subject as to which he was cross-examining. When a part of the statement of the witness is offered in evidence by one party, the other party has the right to offer the remainder of his statements relating to the subject upon which he was cross-examined."

Assemblyman Levy.— There was no offer here, Mr. Guthrie.

Mr. Guthrie.— He was cross-examined as to his statement and testimony before the Bar Association, and we are therefore entitled, within settled rules, to offer in evidence the whole of the statement of the witness.

Assemblyman Levy.—Why, the Van Brunt decision runs to the point that if part of it were offered in evidence you would have the right to offer the entire thing in evidence.

Mr. Guthrie.— The witness was examined. He was asked as to whether he did not testify to so and so. He was asked to read four pages; counsel asked him to read it.

Assemblyman Levy.— I see your point.

Assemblyman Schaap.— Mr. Chairman, if I may interrupt. Mr. Guthrie, I understand this is not offered for the purpose of proving the facts contained in the statement before the Bar Association, but simply to show what he was asked there, isn't that it?

Mr. Guthrie.— Just tell the whole story for what it is worth.

Assemblyman Schaap.— Not to prove the facts therein?

Mr. Kellogg.— Why, if your Honor please, can there be any question about this?

The Chairman.— We will overrule the objection. Proceed.

Mr. Guthrie.— I offer this in evidence.

Mr. Kellogg.— It is proof of what happened there, that is all.

Mr. Stanchfield.— The Court of Appeals case, to which Mr. Guthrie directed your attention simply holds that where some part of a question is explanatory, that part that is explanatory may be read in evidence. Nobody would ever controvert that proposition, but he has not cited, nor he cannot find an authority, that sustains the contention that he makes here.

The Chairman.— Proceed.

Mr. Guthrie.— Will you mark that?

The Chairman.— That is just the point that he has been interrogated with reference to, isn't it?

Mr. Guthrie.— I offer the whole statement of the witness before the Bar Association.

Mr. Stanchfield.— I object.

The Chairman.— In reference to what he has been interrogated about?

Mr. Guthrie.— There is only one question as to which he was interrogated; he was the bookkeeper, and his testimony was called to his attention. Part of his testimony was read by counsel. He was cross-examined in regard to it. He was asked to read the four pages; he read them. I insist that within settled rules we are entitled to offer that in evidence for what it is worth.

Senator Wagner.— I disagree with the Chair, but I won't make any protest. I can see that if there were any further testimony about the mutilating of the books, that that ought to be read in some way; either the testimony of the witness should be called to the witness' attention, or it should be offered in evidence. But

to offer in evidence the entire testimony, I think is absolutely improper.

Assemblyman Levy.— I think so, too.

Senator McClelland.— Mr. Guthrie, do I understand that proposition embraces the introduction of the entire book or just the four pages?

Assemblyman Levy.— Four pages of this man's testimony?

Mr. Guthrie.— The four pages to which the attention of the witness was called.

Senator McClelland.— Whether it refers to the subject matter that he was examined or not.

Mr. Guthrie.— It all refers to the books; the testimony of the witness, the statement that the witness made before that committee in regard to the books.

Assemblyman Levy.— But you agree, Mr. Guthrie, that he was questioned only about one feature of that testimony, and that was in regard to mutilated books. Now, you offer his entire testimoney before the Grievance Committee.

Mr. Guthrie.— I do.

Assemblyman Levy.— I say that is improper.

The Chairman.— Just a minute, Mr. Guthrie. These four pages, what do they relate to? That isn't the entire testimony, is it?

Mr. Guthrie.— They relate to the books of account.

The Chairman.— Is that his entire testimony?

Mr. Guthrie.— I think six pages of testimony.

Mr. Quinn.— Quite accurately, it is 8 pages, Mr. Chairman.

Mr. Guthrie.— The whole of it.

Mr. Stanchfield.— Will the Chairman listen to me for a moment, because this is likely to arise with every witness that comes upon the stand; so you might as well get it settled once and for all. I would like to be heard as to just what the rule is. That while a witness is upon the stand I take the record before

the Bar Association and ask this witness whether or no he did not testify to a certain state of facts before that Bar Association; and if the witness says that he did, they have a right, when they take him for re-direct, to ask him all about anything, three, four or five questions that are explanatory of those questions with reference to which I have interrogated him. Now, that is a rule laid down by Judge Werner in the Court of Appeals, and when Mr. Guthrie has stated professionally that there was no other rule, he is mistaken about it, and he cannot produce any authority to show it. We might as well determine that now and save it coming up again at any other time.

The Chairman.— This was a statement of this witness?

Mr. Stanchfield.— Yes.

The Chairman.— But as I understand the situation — I may be wrong — I think he was asked did he testify to a certain proposition before the Bar Association?

Mr. Stanchfield.— Yes.

The Chairman.— Now, I think I held at that time that the counsel should exhaust the witness' memory and then he could refresh his recollection from that record.

Mr. Stanchfield.— Perfectly proper.

The Chairman.— I admit the force of your objection here. I thought at that time and expected that it would better be put upon the record. If you insist upon that objection, I think that is the proper way it ought to be carried out.

Mr. Stanchfield.— You will get a tremendous record if you are going on at that rate. I am not going to spend any time about it. If the Chairman prefers to make that ruling, go ahead.

The Chairman.— Mr. Guthrie, I think you ought to exhaust the witness as to his recollection of what he said, and then if you wish to refresh his recollection by that statement, you can get it on the record in that way.

Mr. Guthrie.— I must say that I think I am entitled to insist, in this investigation, that when a witness is cross examined as to what occurred before the Bar Association, the Bar Associa-

tion ought to be able to show the whole of that witness' testimony before it. It is a matter of fair play.

The Chairman.— On the point that he is cross-examined on.

Mr. Stanchfield.— On the matter of fair play is a very different argument from that of law.

Assemblyman Levy.— Yes.

Mr. Guthrie.— There has been criticism of their proceedings as to their thoroughness, suggested here, of the proceedings before the Bar Association; and let us know exactly what did occur before the Bar Association.

The Chairman.— I think you are right on that.

Mr. Guthrie.— We are ready to produce the whole record.

The Chairman.— Now, the point I am trying to make is that we are perfectly willing to get the entire record, which is exactly the point in contention; and there is no use in covering our record with a whole lot more.

Senator Wagner.— Mr. Guthrie, if I recollect Mr. Quinn's question, he asked the witness whether he was asked some question with reference to the mutilating of books, and he gave a certain answer; and then he asked the witness whether he was asked any other question by Mr. Chrystie with reference to the mutilating of these books. Now, that is the whole question. Now, if there is any other question asked with reference to that subject I think that you ought to introduce it in evidence, but that doesn't permit you, in my judgment to introduce the entire testimony, unless it relates to the mutilating of books.

Mr. Guthrie.— It is the testimony with reference to the books, because this man was the bookkeeper.

The Chairman.— Let us get back again to the question. What does Mr. Guthrie want to do? Read the question.

Mr. Guthrie.— The suggestion intended to be conveyed is that the examination before the Bar Association was not thorough and complete.

Mr. Quinn.— Precisely.

Mr. Guthrie.— That is what I was trying to do. And then you are preventing us from putting in evidence the record.

The Chairman.— I think the Bar Association is entitled —

Senator Wagner.—(Interrupting) If Mr. Guthrie puts it upon that ground, I withdraw any objection that I have. It is an unfair assertion for Mr. Guthrie to make; but the moment he wants to run away from legal principles and legal rules in order to inject fairness or unfairness into this trial, I will withdraw any objection that I may have. I assumed that we were going to argue as lawyers along legal lines.

Senator McClelland.— The inquiry was with reference to the mutilation of books not as to the character of the books but as to the mutilation.

The Chairman.—Well now, gentlemen, I think we can all get along a good deal faster and better to take that proposition of Mr. Guthrie's in relation to the testimony that was offered in regard to the mutilation of books and read it right into the record.

Mr. Guthrie.— I offer the whole of the deposition of the witness before the Bar Association.

The Chairman.—What I am getting at, do you insist upon putting in everything that he swore to?

Mr. Guthrie.— I don't think it is necessary to spread it upon the record. I think it can be marked as an exhibit. But I do want to have some record for future reference.

The Chairman.— I think you are all right on that. Proceed.

(The testimony of the witness offered in evidence was received and marked Complainant's Exhibit 56 of this date).

Mr. Guthrie.—We wanted to eliminate any suggestion of unfairness.

The Chairman.—All right. We are ready to proceed, gentlemen.

Assemblyman Levy.— That is all of this witness, isn't it?

Mr. Guthrie.— That is all.

The Chairman.— Call the next witness.

Mr. Guthrie.— Mr. Southard.

The Chairman.— Let me see, gentlemen, have you got through with this witness, both sides?

Mr. Guthrie.—Yes.

Mr. Stanchfield.—Yes.

Assemblyman Levy.— He wishes to go to New York.

The Chairman.—All right.

Mr. Guthrie.— Dr. Cutter.

John Ashburton Cutter, a witness, having been first duly sworn by the Chairman of the Committee, testified as follows:

The Chairman.—What is your full name?

The Witness.— John Ashburton Cutter.

Direct examination by Mr. Guthrie:

Q. Where do you reside? A. 66 West 77th street.

Q. And what is your profession? A. Physician.

Q. How long have you been a physician? A. 27 years.

Q. Have you ever practiced any other profession or business? A. I have not.

Q. I take it you have never been a plumber or a steamfitter? A. I have not.

Q. It appears in evidence that a Dr. Cutter verified an original complaint —

Mr. Stanchfield (interrupting). Just a moment.

Q. (Continuing.) In a suit by the Victor Heating Company against Daniel F. Cohalan. Have you any recollection of such an occurrence?

Mr. Stanchfield.— Just a moment. I object to that as hearsay and incompetent and no foundation laid for it. It is against the respondent.

The Chairman.— The objection will be sustained.

Mr. Guthrie.— Step down, will you please?

The Witness.— Sir?

Mr. Guthrie.— Step off. Wait here a minute.

(The witness left the stand.)

Mr. Guthrie.— Mr. Leary.

Timothy A. Leary, a witness called on behalf of the complainant, having been first duly sworn by the Chairman of the Committee, testified as follows:

The Chairman.—What is your full name?

The Witness.— Timothy A. Leary.

Direct examination by Mr. Guthrie:

Q. Where do you reside, Mr. Leary? A. In New York.

Q. How long have you resided there? A. About ten years.

Q. May I ask your age? A. Thirty-nine.

Q. In 1909 were you admitted to the Bar — A. 1903.

Q. 1903. And you have been practicing in the city of New York since then? A. Yes, sir.

Q. You have had some cases, I take it? A. Yes, sir.

Q. And you kept a register of your cases? A. Yes, sir.

Q. You were subpœnaed to produce that register? A. I don't think so.

Q. Have you got it here, or a copy of your register? A. Yes, I have.

Q. Will you produce it? A. Yes, I have the register.

Q. Will you kindly produce it, whether you were subpœnaed or not? A. Yes, sir. Do you want a recent one, Mr. Guthrie?

Q. I want the one of 1909, and I would like you to turn to the case of Victor Heating Company against Cohalan, if there is such a case entered? A. I haven't any entry of that.

Q. You have stated that you have not been subpœnaed to produce your register? A. I am not sure, I don't think I have.

Q. Let me read you the subpœna: "You are hereby directed to bring with you before said Committee all books, papers, records and memorandum mentioned and described in the annexed schedule, which is hereby made a part of this subpœna."

The annexed schedule refers to the summons and complaint in the suit of Victor Heating Company against Cohalan. Didn't you understand, as a lawyer, from that subpœna, that you were called upon to produce your register?

Mr. Stanchfield.— I object to that. I do not understand any such thing as a lawyer, or anybody else, except Mr. Guthrie. When a man is summoned to produce a summons and complaint, it means what it says, it does not mean an office register.

Mr. Guthrie.— He was asked to produce all books relating to these matters.

Mr. Stanchfield.— That hasn't anything to do with it.

The Witness.— I have —

Mr. Guthrie.—We have it here, and there is no use wasting time.

Mr. Stanchfield.— We are not wasting time.

Q. In 1909, where was your office? A. 2 Rector street.

Q. You had an office with Cohalan at that time, did you not? A. I worked for him.

Q. You worked for him? A. I worked for him.

Q. Will you please turn to your register in use in 1909, and see whether you have any entries relating to a suit of the Victor Heating Company against Cohalan? A. I know I haven't any.

Q. There are none then in that book? A. No, sir.

Q. Did you serve a notice of appearance in that suit? A. Yes, sir. I think it is here.

Q. Have you the copy you served with the admission of service? A. I think it is here.

Q. Will you kindly produce it, and at the same time will you kindly produce the complaint in that action. You have it, haven't you?

Mr. Kresel.— The complaint is already in evidence.

Q. The original complaint? A. I think the —

Q. Don't be misled by the suggestion that it is already in evidence, because I am speaking of the original complaint. A. Oh, the original complaint. I haven't any copy of that.

Q. You have not got that? A. No, sir.

Q. When did you last see it? A. The day the action was settled.

Q. Were you in the room when the complaint was destroyed? A. Yes, sir.

Q. Who destroyed it? A. Mr. Cruikshank.

Q. In the presence of Daniel F. Cohalan? A. I think he was there, I am not sure.

Q. And you witnessed the payment of $3,940.55, by Mr. Cohalan to Mr. Cruikshank at that time, did you not? A. I was there, yes, sir.

Q. And that payment was made in bills? A. Yes, sir.

Q. Had you prior to that —

Mr. Kresel.— Do you want to offer it in evidence?

Mr. Guthrie.— I offer it in evidence, the notice of appearance.

The same was received in evidence and marked Complainant's Exhibit 57, and is as follows:

"NOTICE OF APPEARANCE.

SUPREME COURT — NEW YORK COUNTY.

VICTOR HEATING COMPANY,
Plaintiff,
against
DANIEL F. COHALAN,
Defendant.

SIRS:

PLEASE TO TAKE NOTICE, That the defendant appears in this action, and that I am retained as attorney for him therein, and demand that a copy of all papers in this action be served on me at my office, No. 2 Rector street, New York city.

April 5, 1909.

Yours, etc.,
TIMOTHY A. LEARY,
Attorney for Defendant.
Office & Post Office Address,
2 Rector street, New York City.

To ATWATER & CRUIKSHANK, ESQS.,
Plaintiff's Attorneys."

Q. I take it that the complaint that was destroyed at that time by Mr. Cruikshank in the presence of yourself and Judge Cohalan, was the copy of the original complaint which had been served upon the defendant Cohalan? A. Yes, sir.

Q. Had you any extra copies in your files? A. No, sir.

Q. Had you read that complaint? A. Yes, sir.

Q. What was the nature of the complaint? A. The nature of it was based on money had and received, and failure to perform, as I recall it.

Q. Was there anything charging illegality or improper conduct on the part of your client, Mr. Cohalan? A. I don't just recall the wording, I think there was.

Q. Mr. Leary, isn't it a fact that the complaint stated that the defendant, Daniel F. Cohalan, had received money wrongfully from the officers of the company, to which he was not entitled? A. I think it did something to that effect. I don't know just the words.

Q. And that the consideration was illegal? A. I think it said no consideration.

Q No consideration. I would like you to state as far as you can now recall exactly what occurred at this interview at which you said that the copy served on the defendants of the original complaint was destroyed. Can you recall the date? A. Why, approximately I think it was May, 1909.

Q. Was it about May 27th? May, 1909? A. It was along towards the end of May, yes, sir.

Q. Will you please state to the Committee exactly what occurred in your presence and hearing on that occasion?

Mr. Stanchfield.— I am very glad you asked me that, it saves me the trouble.

A. Mr. Cruikshank, Mr. Cohalan and I were present, and Mr. Cohalan asked Mr. Cruikshank if he would not take, I think, $3,500, in settlement of the claim, and Mr. Cruikshank stated he had no authority to settle for anything less than the amount asked for in the complaint, and Mr. Cohalan stated that it was an outrage that he should have to pay money in an action of that kind; and then the money was paid.

Q. Judge Cohalan produced the money, didn't he?

Mr. Stanchfield.— Wait a moment, wait a moment, let him finish.

Q. Judge Cohalan produced the money, didn't he?

Mr. Stanchfield.— I object to his interfering or interrupting. The witness is making a precise and coherent statement of what occurred.

Mr. Guthrie.— The witness stopped.

Mr. Stanchfield.— Pardon me, in response to a question the witness has a right to answer.

Mr. Guthrie.—All right.

The Chairman.— Proceed.

The Witness.— The money was paid, and after the payment there was a release and receipt given and exchanged, and then I suggested to Mr. Cohalan, what would prevent this man from coming back next fall, when the political campaign got under way, and trying to operate under the same tactics and attempt to blackmail him. Mr. Cruikshank stated he thought he was entitled to whatever protection he could have in that respect, and said that as far as he was concerned, he was willing that those papers should be destroyed.

Q. Was it not understood at that time that all papers with reference to the matter should be destroyed?

Mr. Stanchfield.— I object to that question in that form.

Mr. Guthrie.— All right then, proceed, Mr. Leary, in your own way.

The Chairman.— Question withdrawn.

Q. Proceed to tell us everything that occurred. A. Well then, before that I omitted to say Mr. Cruikshank served me with the amended complaint, as before —

Q. That same day? A. That same day.

Q. And is that the amended complaint, as served upon you, Exhibit 34 (handing paper to witness)? A. Yes, that is the one.

Q. And that amended complaint was produced at the same interview? A. Yes, sir.

Q. So that Mr. Cruikshank had this amended complaint in his pocket when that interview began, so far as you could judge? A. You know, when he came into the room, the first thing he did was to hand me the complaint.

Q. So the first thing he did was to hand you this amended complaint? A. Yes, sir.

By the Chairman:

Q. As I understand it, the money was paid in settlement of a litigation commenced? A. Yes, sir.

Q. Of an action? A. Yes, sir.

Q. Now, this amended complaint was made after the settlement was made? A. No, before.

By Mr. Guthrie:

Q. How long before? A. That same day.

Q. That same day —

Assemblyman Levy.— The first thing he did when he entered the room, the first thing Mr. Cruikshank did was to hand you the amended complaint?

The Witness.—Yes, the amended complaint.

Q. And then Judge Cohalan offered $3,500? A. Yes, sir.

Q. How long was the interview? A. Oh, I don't know; possibly half an hour, perhaps more.

Q. And it was shortly afterward followed by Judge Cohalan paying the $3,940.55 in bills? A. Yes, sir.

Q. Did he send out for the bills while Cruikshank was there, or did he have them ready? A. I don't know, I know he had them ready, and the money was available at the time.

Q. The cash was ready? A. Yes, sir.

Q. Do you recall that Mr. Cruikshank receipted for the cash in full on the back of the amended complaint? A. Yes, sir.

Q. And handed it to you? A. Yes, sir.

Q. And that was written out in your presence, the receipt, in your presence? A. Yes, sir.

Q. And indorsed on Exhibit 34? A. Yes, sir.

Q. Now, Mr. Leary, we would like very much to have you state everything that was said by anybody, or first, I would like to ask you in regard to the destruction of the original of the original complaint, you understand what I mean?

Mr. Stanchfield. — Just a moment.

Mr. Guthrie.—We will take it up step by step.

Mr. Stanchfield.— Suppose you do, and hang on to one question until you get an answer.

Mr. Guthrie.—We will hang on to one at a time.

Q. You do remember the destruction by Mr. Cruikshank in your presence of a copy of the original complaint which had been served upon the defendant? A. Yes, sir.

Q. Now, did not Mr. Cruikshank also at that time destroy his original copy of that in your presence? A. I don't think so.

Q. You have no recollection of it? A. I think he said he would do it, I don't think he did it there.

Q. He promised to destroy the original?

Mr. Stanchfield.— I object to that as leading.

Q. Did he?

Mr. Stanchfield.—Wait a moment. The witness has said what was done there. This calls for a conclusion and is leading, and this is characterizing by Mr. Guthrie, to put it in that way in any query to this man. This witness is perfectly impartial, perfectly fair and perfectly intelligent and does not require any formulated conclusions by Mr. Guthrie to get an intelligent answer from him.

Q. Did Mr. Cruikshank at that time in your presence promise Judge Cohalan that he would destroy the original complaint?

Mr. Stanchfield.— I object to that question in that form, and insist that he shall ask the witness to complete, if he has not already done so, the conversation.

Mr. Guthrie.— I have asked him for the conversation twice.

Mr. Stanchfield.—And you haven't given him an opportunity to answer yet.

Mr. Guthrie.— I am giving him an opportunity to answer.

The Chairman.— Give him another opportunity.

Mr. Guthrie.— I will give him another opportunity right now.

Q. State everything that was said in regard to the destruction of anything?

Mr. Stanchfield.— That is perfectly proper and I have no objection to it.

A. Well, Mr. Cruikshank stated that his firm was a reputable firm, and that as far as he was concerned he would see that there was not any trouble coming out of it, or words to that effect.

Q. Did he say anything about destroying the original complaint, his copy? A. Well, I think he said that it would be destroyed.

Q. What else was said about destroying anything in relation to the transaction? A. I don't think there was anything.

Q. How did he come to assert that his firm was reputable? A. Because I raised the question of what would prevent Connolly coming back with another blackmailing scheme.

Q. And what did Mr. Cruikshank then say? A. Well, he said that he thought that he could rely upon his firm as being a reputable firm.

Q. To do what? A. To see that there was not any unnecessary trouble coming out of it.

Q. How was he to prevent the trouble? A. Well that —

Q. As you understood it? A. By the destruction of that complaint.

Q. In other words, another one could be readily drawn, could it not?

Mr. Stanchfield.— Wait a moment, I object to that. There is no basis laid for cross examination yet. That might be perfectly proper for me to ask.

Q. Yes, that is true, but this testimony will all come out, and we are all going to have it here appear before the Committee, either brought out by you or by Mr. Guthrie. There is not anything to indicate to me that this is an adverse witness yet.

Mr. Stanchfield.— Not the slightest.

The Chairman.— And no foundation has been laid for it, but it will come up one way or the other, and it won't do a bit of harm to let it come in now.

Mr. Stanchfield.— Would it make any difference if the question was a thousand more complaints similar could be drawn, of the same character, that is part of the vice of it.

Mr. Guthrie.— In view of Mr. Stanchfield's objection, I won't press it.

The Chairman.— The objection has not been sustained.

Mr. Guthrie.— But it has been overruled.

Mr. Stanchfield.— He withdraws the question.

Q. Now, Mr. Leary, how could the mere destruction of the complaint protect your client, Mr. Cohalan —

Mr. Stanchfield.— Is not that a matter of argument to be addressed to the Committee.

Mr. Kellogg.— The question has not been finished yet, Mr. Stanchfield.

The Chairman.— Proceed, Mr. Guthrie.

Q. I am trying to get at what you understood was to be destroyed, in order to protect your client, as you say, from blackmail in the future? A. The summons and complaint, as I understood it, was to be brought — the action was blackmail, and I knew it was blackmail.

Q. You knew it was blackmail. A. I felt absolutely sure it was a blackmail proceeding.

Q. Yes. A. And I felt sure — and I felt that there might be a possibility that when the campaign came along here that fall, that he would come around and try to get it in the newspapers, and distort it, on the ground that Mr. Cohalan was obliged to settle the action, for some reason or another, or something like that, and I knew why he was settling the action.

Q. And you considered that it was sufficient, simply, to destroy the complaint that had been sworn to, the original complaint? A. I was in the hopes that that would in some way prevent him from getting it in the newspapers, and getting it distorted in different ways.

Q. Now, Mr. Leary, wasn't it understood at that time that the record of the alleged transactions should be destroyed by Mr. Cruikshank, and didn't he promise to do so? A. Records?

Q. Yes. A. I don't think so, no, sir — that is, now I want —

Mr. Guthrie.— About the records, I don't know what do you mean by the records, anything other than the summons and complaint.

Q. With reference to anything else that was to be destroyed, Mr. Leary? A. Oh, I didn't understand that.

Mr. Stanchfield.— The only thing, in other words —

The Chairman.— I don't think Mr. Guthrie is through yet.

Mr. Stanchfield.— He has subsided, that is evidence of it, isn't it?

The Chairman.— I don't know, I think there was something more than he was looking for.

Q. Mr. Leary, you felt that the complaint itself alleged a very serious charge, if true, against your client? A. I knew it was not true.

Q. But, if true, it was a very serious charge, was it not? A. It was a serious charge.

Q. Yes, affecting his honor? A. I was absolutely sure it was not so.

Q. Assuming that it was false, nevertheless, as drawn, it contained a charge that affected Mr. Cohalan's professional honor? A. Yes, and if the —

Q. And that is why you wanted the complaint destroyed? A. And if it got into the newspapers with that construction, and the way in which it could be distorted, I thought it would be damaging.

Q. And that is why you advised that it should be destroyed? A. I did not advise that it should be destroyed, I suggested it.

Q. You simply suggested it? A. No, I asked what protection he was to have.

Q. And then what were you told? A. Well, Mr. Cruikshank said that he was willing to do anything —

Assemblyman Levy.— Louder, please, we can't hear.

A. (Continuing.) Mr. Cruikshank volunteered that he would do anything that he could to prevent a recurrence.

Q. Did he then take the complaint that you had and tear it up? A. Yes.

Q. Did you ask him to do it? A. No, sir, I did not.

Q. Did he volunteer to destroy it? A. I think so.

Q. Don't you know that it was one of the conditions of the settlement imposed by Judge Cohalan, that that complaint should be destroyed? A. No, I did not.

Mr. Guthrie.— That is all.

Cross examination by Mr. Stanchfield:

Q. Did Judge Cohalan, Mr. Leary, in this conversation, have anything to say as to what should be done with this complaint? A. No.

Q. You were the attorney of record for Mr. Cohalan? A. Yes, sir.

Q. And Mr. Cruikshank was the attorney of record for Mr. Connolly? A. Yes, sir.

Q. And the conversation with reference to the destruction of the complaint took place between you and Mr. Cruikshank? A. Yes, sir.

Q. Was there, to your recollection, a single word said between you and Mr. Cruikshank, or by Judge Cohalan, upon the subject of the destruction of any other papers or records, than this complaint, this summons and complaint? A. No, sir.

Q. You stated to Mr. Guthrie, I think, and I will ask you now as to the fact: Did Mr. Cruikshank at the time have with him the original of the complaint that was destroyed? A. I don't think he did.

The Chairman.— You are speaking very low, Mr. Witness.

A. (Continuing.) I don't think he did.

Mr. Stanchfield.— That is all.

Mr. Guthrie.— That is all, Mr. Leary.

The Chairman.— Call your next witness.

Mr. Guthrie.— Dr. Cutter is now here.

The Chairman.— Mr. Stanchfield, I am informed that Dr. Cutter is now here.

Mr. Stanchfield.— I shall raise the same objection, it don't make any difference who verified that complaint, this has nothing — it is nothing to Judge Cohalan who verified it, is was done in his absence. How does he know whether Cutter was a practicing physician, or a blacksmith, or a layman, or a steamfitter or a plumber, or what not? Mr. Guthrie is getting some amusement out of this, and I am glad he is getting some amusement out of these proceedings, in asking him whether he was a plumber or steamfitter.

Mr. Guthrie.— I won't call Dr. Cutter.— I wish the record to show that in view of the statement of counsel that we will not again call Dr. Cutter.

The Chairman.—You are doing this on your own motion.

Mr. Guthrie.—Absolutely. I wanted to avoid suggestion hereafter, here "Why didn't you produce Dr. Cutter?" Here he is.

Mr. Stanchfield.—Who is going to make that inquiry?

Mr. Guthrie.— I thought the suggestion might have come from you.

Mr. Stanchfield.— I thought you were going to say Mr. Quinn. I never would have made it.

Mr. Guthrie.— I wish the printed copy of the Bar Association proceedings be marked for identification.

Same marked Complainant's Exhibit 38 for identification.

James Bennett Southard, was called as a witness on behalf of the complaint, and having been duly sworn, testified as follows:

Direct examination by Mr. Guthrie:

Q. Where do you reside? A. Cold Spring, New York.
Q. How long have you resided there? A. All my life.
Q. And that is about how long? A. 39 years.
Q. You are a lawyer by profession? A. I am.
Q. You now hold a public office? A. I do.
Q. A judicial office? A. I do.
Q. What is that? A. County judge and surrogate.
Q. How long have you been that? A. For the past twelve years.
Q. Judge Southard, how long have you known John A. Connolly? A. All my life.
Q. Were you ever interested in any way in the Victor Heating Company? A. Merely as a stockholder.
Q. To what extent? A. I don't now recall the number of shares.
Q. From the time of its incorporation in 1900? A. No, sir.
Q. When did you first become interested or connected with it? A. At the time that Mr. Williamson, one of the three incorporators, ceased his connection with the company.
Q. About what date was that, sir? A. I don't know, sir. Reference to the resolution or the book of minutes will show.
Q. And were you then elected a director of the company? A. I was.
Q. And served as one ever since? A. With the exception of a short time.
Q. What time was that? A. Some time in 1906.
Q. 1906? A. I think so.

Q. And how long was that? A. Very short time; I had a misunderstanding about some claim that I had represented them in the collection of, and filed a resignation.

Q. What was the name of your firm? A. The firm was Quinn & Southard, former Senator John P. Quinn.

Q. And did you act as counsel for the company at any time, the Victor Heating Company, or your firm? A. Oh, yes, we brought several suits for collection of claims.

Q. And was that in 1904, 1905 and 1906? A. I cannot say the time, sir.

Q. You cannot remember? A. No.

Q. There has been some testimony as to a conference in December, about December, 1903, between three directors of the Heating Company, Mr. O'Hanlon, Mr. Connolly and yourself, at a club in the city of New York. Do you recall such a meeting? A. I recall there was such a meeting, the date I do not recall.

Q. And where was the meeting? A. As I remember, at the Catholic Club, Central Park —

Q. Was that the only meeting you ever had at the Catholic Club? A. To my best recollection, yes.

Q. Was there anything said at that meeting in regard to the capital stock of the Victor Heating Company?

Mr. Stanchfield.—Well, I object to that as hearsay as to the respondent Cohalan.

Mr. Guthrie.— The ground upon which that is competent is this: It appears prima facie that in the interview between Connolly and the respondent, the demand or suggestion was made by the respondent for 50 per cent. of the stock of the Victor Heating Company, and Connolly said that he would consult his directors, and I now offer to prove by this and the other director, that such conference was held, and that the suggestion or offer of Mr. Cohalan was submitted to them and discussed and refused.

The Chairman.— Objection overruled.

Mr. Stanchfield.— I am not going to spend much time with it, but Mr. Guthrie does not complete the story.

Mr. Guthrie.— Complete it for me.

Mr. Stanchfield.— I intend to, in due time. They asked of Connolly also whether the directors of this company took action

on that proposition submitted from Mr. Cohalan for one-half of the stock, and refused it, and Mr. Connolly was asked to state that. Now that is the limit to which legally they are entitled to go, they cannot show the action of this directorate outside of the corporate action in the absence of Cohalan?

The Chairman.— Does the record show that?

Mr. Stanchfield.— Mr. Guthrie did not state all that took place, or all that he proved by Connolly. It is not a very vital matter.

Mr. Guthrie.— I offer by this witness to prove the res gestæ, of what we allege to have been an agreement, I offer to prove by this witness corroboration of Connolly that subject was talked at the time, December, 1903, discussed by the directors in that meeting.

The Chairman.— Just a moment. I want to see if that is in the record there.

Mr. Stanchfield.— I will tell you, Mr. Chairman, rather than to spend the time to look it up, I will withdraw the objection and let him answer, because I don't care anything about it.

The Chairman.— All right, go ahead.

A. What is the question?

Q. State then why— A. (Interrupting) From the stenographer's minutes.

Assemblyman Gibbs.— Am I to understand there is going upon this record a conversation held by three men at some place outside of the hearing of the respondent?

The Chairman.— Yes.

Assemblyman Gibbs.— That seems to be rather strange to me.

The Chairman.— There is no objection now. Mr. Stanchfield has withdrawn his objection to it.

Mr. Stanchfield.— It is very unusual procedure, but I want to get through here some time, so I withdraw my objection to it, and allow it to go in.

Assemblyman Gibbs.— I think, as a member of this Committee, I wish personally to protest against anything of that sort. I think that we must draw the line here somewhere.

The Chairman.— We are getting along as fast as we can.

Q. (Repeated by the stenographer as follows): "Was anything said at that meeting in regard to the capital stock of the Victor Heating Company?" A. By whom?

A. By Mr. Connolly.

I don't recollect the time, but at the meeting of the Victor Heating Company or at the meeting of the three men, Mr. Connolly stated that some person, to me unknown, and never told to me, was about, or he had an idea of having, or giving, 50 per cent of the capital stock of the company. I said in my opinion that was very bad, because if he gave 50 per cent., he was giving 50 per cent. of his company, no matter from what source it might come, and consequently, I said that I would not favor it.

Q. Was anything said as to what Connolly should do or say to this person whose name was not disclosed, as you recall? A. In what connection?

Q. In connection with the stock, whether the offer should be declined or what action should be taken by Connolly? A. I don't recall that there was any suggestion or action by any person for or on behalf of the company.

Q. Did the directors approve or disapprove, the majority? A. I did not consider that it was a meeting of the directors or an official meeting of the corporation.

Q. You regarded it as an informal meeting of directors at this club? A. I did not; not even a meeting of the directors.

Q. Just simply a meeting of you three gentlemen who happened to be directors of this Victor Heating Company? A. And by request Mr. Connolly had either telegraphed or telephoned to me at my home in Cold Spring asking me to meet him at the club and I think the day was Sunday.

Q. And was any other subject in reference to the business of the company discussed than this proposition to give some one 50 per cent. of the stock? A. Not that I recall.

Q. What was the company to get for this bonus of stock?

Mr. Stanchfield.— I object to that question as leading, calling for a conclusion, improper and hearsay.

Mr. Guthrie.—Will the stenographer kindly repeat the question, the objection to which is sustained.

The stenographer read the question as follows: "Q. What was the company to get for this bonus of stock?"

Q. Was there anything said by Mr. Connolly at that interview that you can recall in reference to what the person who was to get this stock should do for it?

Mr. Stanchfield.— Same objection, that it is hearsay and incompetent.

The Chairman.— Overruled.

Q. The objection is overruled, Judge Southard. A. The question is what?

Question was read by the stenographer as follows: "Q. Was anything said by Mr. Connolly at that interview that you can recall in reference to what the person who was to get this stock should do for it?" A. I can only give you my conclusion.

Assemblyman Levy.— No, no, what was said, is the question.

Q. Give us your best recollection? A. I can only give my conclusion.

Q. By your conclusion you mean your recollection of the result of the conversation? A. I could not even designate it as that.

Q. Mr. Southard, you testified before the Bar Association, did you not, last month? A. I made a statement.

Q. You made a statement, and of course that statement was true?

Mr. Stanchfield.— I object to that. There isn't any basis laid for trying to insult under these circumstances a man that occupies the position of county judge and surrogate of a county like Putnam county in the State of New York with the present atmosphere surrounding the situation. There is nothing in Judge Southard's manner, demeanor or deportment to indicate but what he intends to be a candid witness.

The Chairman.— I do not think counsel meant anything like that.

Mr. Stanchfield.— That is what the question intends on its face.

Assemblyman Levy.— I hope not.

Mr. Guthrie.— If it is, the question is withdrawn.

Mr. Stanchfield.— You asked a judge of a court of record —

Mr. Guthrie.— I was laying in orderly fashion a foundation for the introduction of that statement and I am sure you so understood —

Mr. Stanchfield.— You asked a judge of the Court of Record whether he intended to tell the truth.

Mr. Guthrie.— Are you through with your criticism?

Mr. Stanchfield.— For the moment, until you offend again. Then I will take it up again.

The Witness.— What page?

Mr. Guthrie.— Page 249.

Q. Do you recall the following question and answer in your statement before the Bar Association printed record page 249?

Mr. Stanchfield.— I object to Mr. Guthrie's reading questions and answers in the proceedings before the Bar Association. There is not any foundation laid for that method of conducting an examination.

Mr. Guthrie.— I should like to read to the committee what the Court of Appeals says upon the subject of my right to read this.

The Chairman.— You are attempting to refresh his recollection, if I understand you rightly?

Mr. Guthrie.— I am.

The Chairman.— I think the rule is that you should exhaust the witness' knowledge before you attempt to refresh his memory by reference to a memorandum?

Mr. Guthrie.— I have done it. He said he could not remember it. I have gone as far as I could. I would not have asked this if I had not already exhausted it as far as possible. Now I want to prove he made this statement in regard to what the person was to do, that I am about to read to him, and I understand the Court of Appeals has again and again declared that you can do that very thing and if you will bear with me a moment I will read what the Court of Appeals says.

The Chairman.— The proposition I raised was that I did not understand you had exhausted his memory. Proceed.

The Witness.— What was the question?

Mr. Guthrie.— If I read this extract from the Court of Appeals.

Assemblyman Levy.— Let us have the question.

Mr. Stanchfield.— Read the question.

The question was read by the stenographer as follows: "Q. Do you recall the following question and answer in your statement before the Bar Association printed record, page 249?"

Mr. Stanchfield.— That won't clear —

The Chairman.— There is nothing before the witness. The witness impresses me with the fact that he is trying to recall a conversation that took place at the Catholic Club as to whether anything was said.

Mr. Guthrie.— Yes.

The Chairman.— Not as to what statement was made at the Bar Association.

Mr. Guthrie.— What I want to prove is that two weeks ago in testifying or stating in regard to that very conversation —

The Chairman.— I get your point.

Mr. Guthrie.— he did then recall certain facts and statements.

Assemblyman Levy.— But Mr. Guthrie, he tells you he could give you his conclusions. Does the record of the Bar Association show those were conclusions?

Mr. Guthrie.— No, it is positive testimony. Would you like to have it?

Assemblyman Levy.— I think we have a copy here.

Mr. Stanchfield.— I suppose Mr. Guthrie refers to the statement on page 249. That was a conclusion and is a conclusion. It is not evidence.

The Chairman.— I think the conclusion in here now — these are statements you made before the Bar Association — do you recall them?

The Witness.— Only by reference to printed page 249.

Mr. Stanchfield.— He has it right before him.

The Witness.— I have it right here.

Q. To the best of your recollection is that printed transcript correct? A. I presume that is what I stated was my conclusion, from the testimony or from the conversation.

Q. Let me ask you, referring to page 249, whether this statement was made:

"By the Chairman: Q. Well, what was the conference about, Judge? A. Why, as I remember it, Mr. Connolly stated that some person was desiring of having a part of the company. He was going to get some work or a lot of work, by reason of it, and Mr. Connolly's idea was, or desire was, that they should have 50 per cent, or at least that was the proposition that was made to him."

Q. Do you recall that statement before the Bar Association three weeks ago? A. That is what was my conclusion from what I heard at that meeting.

Q. Then Mr. Chrystie said, "Q. Fifty per cent of what? A. Of the stock of the company. And I thought that it was a bad idea, and so told him, because it gave whoever was to have this stock an interest in the company so long as it existed, and interest in whatever income they might derive from any source."

Do you remember making that statement? A. Yes, and I have so stated.

Q. Do you remember being asked, at the bottom of that page: "Well, was it decided not to give 50 per cent of the stock to this person at that conference? A. My impression is yes."

At the bottom of the page: "Q. Was anything said in the course of that conversation to the effect that the person in question was to be requested to meet the directors? A. It might have been. I cannot say yes or no; I don't know."

Q. Mr. Southard, were you subsequently requested to sign or verify the original complaint in the action of the Victor Heating Company against Daniel F. Cohalan?

Mr. Stanchfield.— I object to that as hearsay and incompetent, the same as I made the objection to Dr. Cutter.

The Chairman.— Overruled.

Mr. Stanchfield.— Note an exception.

The Witness.— I was asked to verify a complaint in such an action.

Q. Did you comply with the request? A. I refused.
Q. Did you state any reason?

Mr. Stanchfield.— I object to that. What difference does it make to the respondent whether he said whether he would or would not verify a complaint?

The Chairman.— Overruled.

The witness.— What is the question?

The question was read by the stenographer as follows: "Q. Did you comply with the request? A. I refused.
"Q. Did you state any reason?"

The witness: My impression is that I said I would not have anything to do with it.

Q. May I ask you why you would have nothing to do with it? A. That is my conclusion.

Mr. Stanchfield.— Wait a minute. I object again to that.

The Chairman.— Just a moment. I did not hear that question.

Mr. Stanchfield.— He asks why he wouldn't have anything to do with it. The witness refused to verify the complaint. He said he wouldn't have anything to do with it.

The Chairman.—Yes, that is a conclusion. That is sustained.

Q. Judge Southard, about the 1st of April, 1911, do you remember or recall having a conference with Mr. Connolly at your residence at Cold Spring in reference to a note? A. I do not.
Q. Will you kindly state to the Committee what occurred at that time?

Mr. Stanchfield.— I object to that as hearsay.

Mr. Kresel.— That is hearsay.

The Chairman.— Sustained.

Q. Was the amount of the note mentioned?

Mr. Stanchfield.— I object to that as hearsay, part of the conversation. He is entitled to all or none of it.

Q. Was anything said as to the person to whom the note was to be given?

Mr. Stanchfield.— Same objection.

The Chairman.— Same ruling.

Mr. Guthrie.—Your witness.

Cross-examination by Mr. Stanchfield:

Q. Judge Southard,—

Mr. Guthrie.— One moment, Mr. Stanchfield.

Senator Murtaugh.— The Committee will take a recess for 10 minutes.

Mr. Stanchfield.— I will be through with him in 2 minutes.

The Chairman.— Proceed.

Cross-examination by Mr. Stanchfield:

Q. You state that you have been a director of the Victor Heating Company practically from its birth down to until its death, with the exception of an interval in 1906? A. I think that was the time. I am not positive about that.

Q. You had a misunderstanding at that time with Mr. Connolly, didn't you? A. Yes, over the fees of a collection, I believe.

Q. Over the fees of a collection, and that resulted in your getting a judgment against him, which was adjusted and then you went back into the directorate? A. No, I had no judgment, just simply had a settlement.

Q. A suit then? A. Oh, no, no.

Q. Never mind. I don't care anything about it. A. That came later.

Q. The note was paid up and you went back into the directorate? A. Oh, yes.

Q. And the firm of Quinn & Southard of which you were a member acted right along in certain capacities as counsel for this corporation? A. Well, no. We did some little work but it was very little.

Q. Well, in making collections? A. We did; we brought several actions.

Q. That is what I understood you to say? A. Yes, in the Court in New York city.

Q. Did you have occasional meetings of the directors? A. Very seldom; I think the meetings we attended were only those that were necessary to be had, the regular annual meeting, and for the purpose of making up the annual report to the Comptroller.

Q. You say you have known Connolly all your lifetime? A. All my life; I was born in Cold Spring and he was.

Q. Your intimacy and acquaintance with him continued over these years from 1900 to 1910 substantially? A. I never had any trouble that I remember.

Q. Did you see him occasionally? A. Oh, yes.

Q. Saw him when you had meetings of the directors? A. Yes, and at other times.

Q. And saw him when you had occasion to make collections for the company in regard to that? A. Yes.

Q. And saw him upon other occasions? A. Oh, no doubt.

Q. Now, you have told us that this conversation that you had with reference to a proposition made by someone to take 50 per cent. of the capital stock of the corporation took place at the Catholic Club. Now, I will ask you whether at any meeting of the Board of Directors or any conversation you ever had with Connolly or with O'Hanlon, or anyone interested in that concern, you ever heard of the proposition that Connolly was paying 55 per cent. commission to Mr. Cohalan or anyone else of the net profits of the work to be obtained by the Victor Heating Company from the city of New York? A. I never heard Judge Cohalan's name in connection with anything until the complaint was put before me and I was asked if I verify it.

Q. Did you ever hear at any time or place previous to the publication of Connolly's statement in the New York World of an arrangement between Connolly and him by which he was to pay 55 per cent. of the net profits of such work as he could obtain for the company from the city? A. No.

Mr. Stanchfield.—That is all.

The Chairman.—Next witness.

By Mr. Guthrie:

Q. My attention is called to the fact that when I sought to prove — Judge Southard, early in 1911, do you recall drafting

a note for $4,000 for Mr. Connolly, or his consulting you about it? (Counsel passes paper to witness.) A. He did.

Q. And is that the draft with your handwriting correct — show corrections on it? A. I made the interlineations in it.

Q. And about what date was that? A. I can't say, sir.

Q. Can you recall whether it was — A. (Interrupting) It is the time when Mr. Connolly came to Cold Spring and saw me.

Q. Was it prior, according to your best recollection, to April 5, 1911? A. I think so.

Mr. Guthrie.— I will offer that in evidence.

Mr. Stanchfield.— We will object to that as irrelevant and incompetent. I object to it upon the ground that as to the respondent it is irrelevant and incompetent.

The Chairman.— The objection is overruled.

Mr. Guthrie.— My attention is called to the fact that it is already marked as Exhibit 51 in evidence, but that I think must have been a mistake of the stenographer. That must have been marked for identification.

The Chairman.— What exhibit is that, 51?

Mr. Guthrie.— 51.

Assemblyman Levy.— It must have been marked this morning.

Complainant's Exhibit 51 for identification was received in evidence and marked Complainant's Exhibit 51. Said exhibit reads as follows:

"Dated .....

"On demand I promise to pay to ..... four thousand dollars for value received at Century Bank of New York City.

"It being understood and agreed between the maker and payee hereof that this note is to be held by the payee and is not to be negotiated or sold or become payable to any third party."

Examination by Mr. Stanchfield:

Q. Judge Southard, at the time you were before the Bar Association and were questioned by Mr. Chrystie, was Mr. Connolly present? A. He was.

Q. Connolly testified here that he had filled various capacities and regards himself as competent to fill a great many more. I call your attention to page 248 of the record before the Bar Association and run down four or five questions (reading) "Q. Refer to the book and see if that will help you.

Mr. Connolly.— September 12th.

The Witness.— Now, Mr. Connolly, let me do this, will you?

Mr. Connolly.— I thought I would shorten this for you.

The Witness. I would rather have my own statement, rather than yours."

Did that take place? A. It did.

Mr. Stanchfield.— That is all.

Assemblyman Cuvillier.— Mr. Stanchfield, the witness means the judge?

Mr. Stanchfield.— No, it means that Connolly was the lawyer and the judge the witness.

The Chairman.— Next witness.

Mr. Stanchfield.— I offer it as showing that Connolly was trying to earn this $3,000 a year.

Cross-examination by Mr. Quinn:

Q. Judge Southard, were you asked by Mr. Chrystie when you made your statement to the Bar Association whether you had had a conversation with me within the last three months? I refer you to page 261 of the Bar Association's printed statement. A. I have spoken of being associated with the firm of Quinn & Southard. Mr. Chrystie wanted to know which Quinn, and I said not John Quinn; John M. Quinn; that is my recollection; and that was the John M. Quinn, the Senator.

Q. You never had spoken to me in your life? A. I never had seen you except sitting as a commissioner on the real estate being taken in the Croton Water Shed.

Q. Referring to page 261, isn't this what Mr. Chrystie said: "Q. Has any representative of Judge Cohalan talked with you in the last two or three months? A. No." Page 261. A. Yes, that is there.

Q. And then the next question, "Q. Has a Mr. Quinn talked with you? A. What Quinn do you mean? Q. John Quinn. A. Do you mean John, or John M.? By Mr. Seymour: Q. Either John or John M.? A. Well, John M. Quinn was Senator Quinn, he was my partner," and so on.

Q. Is that correct? A. Yes.

The Chairman.— Next witness.

Mr. Guthrie.— One minute. Now, I offer in evidence the statement made by the witness before the Bar Association in order that the whole of it may tell the true story, and that it may — and that the committee may determine for itself whether the witness was being prompted by Mr. Connolly or was testifying from his own knowledge.

Assemblyman Levy.— You merely offer it as an exhibit.

Mr. Guthrie.— I offer it as an exhibit and then I will call — I will then call the witness' attention to one or two things that Mr. Quinn omitted.

The minutes of the proceedings before the Bar Association from page 246 to 266 were received in evidence and marked Complainant's Exhibit No. 59 of this date.

Assemblyman Levy.— Before it is marked, you make the offer, do you?

Mr. Guthrie.— I make the offer of the whole thing; Judge Southard's testimony before the Bar Association, in view of the criticisms by the counsel for the respondent.

Mr. Stanchfield.— I am not going to say any more about that. I make the same objection.

Mr. Guthrie.— I think you will save time if it is merely put in evidence. We can then read from it without taking up the time of the witness to call his attention to it. It will speak for itself. That is all.

The Witness.— Any question that the committee desires?

The Chairman.— That is all; go ahead. The next witness.

Mr. Guthrie.— Are you going to take a recess?

The Chairman.— No, we will go to half past five and then adjourn.

Mr. Guthrie.— Mr. O'Hanlon.

George O'Hanlon, a witness, called on behalf of the complainant, having been first duly sworn by the Chairman of the Committee, testified as follows:

The Chairman.— What is your name?

The Witness.— O'Hanlon.

The Chairman.— What is your first name?

The Witness.— George.

Direct Examination:

By Mr. Guthrie:

Q. Mr. O'Hanlon, where do you reside? A. 139 West 188th street, New York.

Q. And how long have you lived in New York? A. Almost 30 years.

Q. In what business are you engaged? A. Mechanical draughtsman.

Q. Will you speak a trifle louder so that I can hear you? A. Mechanical draughtsman.

Q. By yourself or with some concern? A. With the Department of Education of the city of New York.

Q. In 1900 were you connected in any way or interested in the Victor Heating Company? A. I was.

Q. Were you one of the incorporators and original stockholders? A. I was.

Q. What was your interest in the company? A. One-third.

Q. How long did you remain interested in the company? A. Until sometime in 1904.

Q. And do you remember the date when you withdrew? A. Early in the summer. I don't remember the month, the date.

Q. About that time you commenced a suit against the concern, did you not? A. Yes, shortly after.

Q. What? A. Shortly afterwards.

Q. Would that enable you to fix the date? A. Well, I think it was about August that the suit was started.

Q. Have you got a copy of the complaint in the suit? A. No, sir.

Q. Who was your attorney at that time? I haven't heard. A. Florence Sullivan.

Q. How long had you known him, Mr. John A. Connolly? A. Since the middle of March, 1900.

Q. That is about the time of the organization or incorporation of the Victor Heating Company? A. About a month before.

Q. And he had an interest similar to yours? A. Yes, sir.

Q. What part of the work of the concern did you do? A. I drew the plans, made the estimates in the early part of the business; I kept the books, superintended the work outside. In fact I did mostly all the business.

Q. You did all the business? A. Yes, sir.

Q. And the others did practically nothing while you were there? A. Mr. Connolly was the president.

Q. Connolly was president and what were the other officers? A. Well, the first year, Mr. Williamson, while he was connected, he did some work; he worked on the outside, he superintended the work on the outside.

Q. Mr. Connolly did not work — A. Well —

Q. (Interrupting) What? A. He pretended to be looking for work on the outside.

Q. He pretended to be looking for work. And that obtained during the four years that you remained connected with it? A. Yes, sir.

Q. Do you recall about December 15, 1903, a conversation at the Catholic Club between you and Mr. Connolly and Judge Southard? A. I have a faint recollection of such a meeting.

Q. You have a faint recollection of such a meeting? A. Yes, sir.

Q. Do you recall who was present? A. Yes, Mr. Connolly, Judge Southard and myself.

Q. Can you recall any other meeting that you held at that club? A. No.

Q. What was the subject discussed? A. Mr. Connolly asked me the day before to meet him that morning at the Catholic Club and Judge Southard was there and he had a proposition to turn over, as I recall it, 51 per cent. of the stock to some political friends of his downtown in order to get city work.

Q. 51 per cent. of the stock of what company? A. The Victor Heating Company.

Q. And was that subject discussed by you three directors? A. Yes, informally of course, I didn't consider it a meeting of directors just as directors.

Q. A discussion among the three men who happened to be — A. (Interrupting) Yes.

Q. Who happened to be all the directors of the company. A. Of the company, yes.

Q. In reference to the company's affairs? A. Yes; we kept no minutes of it, or record.

Q. Now, was anything said as to the consideration that was to be received for giving this political friend or friends this 51 per cent. of the stock? A. Yes; he said he could obtain a lot of work from the city departments.

Q. Now, what action was taken, so far as you know? What was the conclusion of the meeting? A. We turned the proposition down.

Q. And you instructed Mr. Connolly, did you not, then to decline the proposition? A. Yes, sir.

Q. To the best of your recollection, was there not a suggestion then that Mr. Connolly should produce his party in order that the matter might be discussed? A. I don't recollect any such proposition.

Q. Do you recollect whether there was any suggestion of a counter proposition? A. No.

Q. It has been testified that a letter had been sent subsequently in January, 1904, to Mr. Cohalan and that you wrote the letter, and in substance that the letter offer to Mr. Cohalan 55 per cent of the profits of the business that he might procure from the city departments. Did you ever write any such letter? A. Not that I remember.

Q. You may have written such a letter, may you not? A. I think if I did I would remember it, because I have been racking my brains ever since to think of it —

Q. (Interrupting.) Ever since when, Mr. O'Hanlon? A. Since I have read Mr. Connolly's statement in the New York World.

Q. And since you appeared before the Bar Association? A. Yes, sir.

Q. You remember that you appeared before the Bar Association on the 21st of June? A. Yes.

Q. Do you not? A. Yes.

Q. Do you remember stating then that it was possible that you would — that that might have happened, namely, your writing such a letter?

Mr. Stanchfield.— Well, now I object to that, an inquiry whether a thing is possible. This witness —

Mr. Guthrie.— Well, I will ask him — will give the exact words.

Mr. Stanchfield.— You may ask him that question. Of course I don't object to that, to your asking.

Q. I will ask you whether that is —

The Chairman (interrupting).— Ask him if he remembers making any statement there.

Q. Do you remember making a statement before the Bar Association? A. I do.

Q. Do you remember whether it is correct?

The Chairman.— Mr. Guthrie, couldn't we have what the statement was?

Mr. Guthrie.— It is page —

The Chairman.— I mean does he remember the statement?

The Witness.— In a general way, yes.

The Chairman.— Yes.

Assemblyman Goldberg.— Speak a little louder, will you, please?

The Witness.— In a general way.

Q. Let me read to you and see whether you made this statement in the course of your testimony before the Grievance Committee of the Bar Association: "Q. See if I cannot refresh your recollection about it. Didn't you write him a letter to the effect that you agreed to give him 55 per cent of the total amount of the orders that he obtained for the company from the City Department, known as the Department of Buildings and Public Offices; wasn't that the substance of the letter which you wrote to him? A. I don't remember writing such a letter.

"Q. You have no recollection of it at all? A. No.

"Q. And you don't remember pressing it in the back of a letter book? A. No.

"Q. Haven't you the slightest recollection of that? A. No.

"Q. But it is perfectly possible it happened, isn't it?"

Mr. Stanchfield.— I object to a question whether or no a thing is perfectly possible, on the ground that it is speculative and remote.

The Chairman.— No, it is no evidence of a fact, that is true.

Mr. Stanchfield.—Well, that is what I mean.

Mr. Guthrie.— The question is whether he made that statement before the Grievance Committee as late as the 21st of June?

The Witness.— I did.

Q. You did? A. Yes.

Q. Now, Mr. O'Hanlon —

Mr. Stanchfield.—(Interrupting) Why don't you read the next question?

Mr. Guthrie.— I will offer the whole thing in evidence.

Mr. Stanchfield.— I am not asking you to do that but the next one comes within the rule of the Court of Appeals.

Mr. Guthrie.— I will read any part of these depositions that you want.

Mr. Stanchfield.— Just read the next.

Mr. Guthrie.—(Reading) "Q. Don't that refresh your recollection that there was a communication on the subject? A. We had nothing to do with any 55 per cent. proposition, but there was about turning over 51 per cent. of the stock of the company."

Mr. Stanchfield.— I don't think the Committee understood it the way you read it. (Reading) "Q. Don't that refresh your recollection that there was a communication on the subject? A. We had nothing to do with any 55 per cent. proposition but there was about turning over 51 per cent. of the stock of the company." That is the way it reads.

Mr. Guthrie.— Now, Mr. Stanchfield, if you had read on over the page —

Mr. Stanchfield.—(Interrupting) If you had read sincerely you would have avoided my having to interrupt. The difficulty is you are so serene that you do not give anybody the benefit of really what that evidence does disclose.

Mr. Guthrie.— My question was merely to offer to put in the whole of it which will speak for itself.

Mr. Stanchfield.—You mean to say that you want to do it to defend Mr. Chrystie?

Mr. Guthrie.—We are not defending Mr. Chrystie.

Mr. Stanchfield.— Or the Bar Association.

Mr. Guthrie.—We are not defending the Bar Association; it is not necessary.

Mr. Stanchfield.—As a matter of fairness to them; but you can't do it as a matter of law.

The Chairman.— Proceed gentlemen, hurry it up.

Q. Mr. O'Hanlon, did you ever have any conversation with Mr. Connolly about his paying 10 per cent. to someone connected with the departments of the city of New York? A. I did.

Mr. Stanchfield.—Wait a minute; that is objected to as hearsay, incompetent and improper; it hasn't anything to do with the respondent in this case.

The Chairman.— Just read the question.

(The stenographer thereupon read the question referred to as follows): "Q. Mr. O'Hanlon, did you ever have any conversation with Mr. Connolly about his paying 10 per cent. to someone connected with the departments of the city of New York."

The Chairman.— Is that within the charges, Mr. Guthrie?

Mr. Stanchfield.— Not at all; it has nothing to do with this respondent.

Mr. Guthrie.— If you read the charges, you will see that in addition to the 55 per cent., 10 per cent. was to be paid to somebody connected with the Bureau of Water Supply, Gas and Electricity. Mr. Connolly testified to that.

The Chairman.— It is a conversation?

Mr. Guthrie.— In reference to that 10 per cent.

The Chairman.— I mean in the absence of the defendant?

Mr. Guthrie.—Yes.

The Chairman.— Or the resopndent, I mean.

Mr. Guthrie.— If the agreement, or any declaration be made by these parties, it is admissible, and I offer to prove by this witness, that he knew that 10 per cent. was being paid to somebody.

The Chairman.— I don't think it is relevant. I will overrule the objection for the sake of hurrying it on.

Mr. Guthrie.— Do you sustain the objection?

The Chairman.— No.

Q. You answered the question. I believe you said "yes," didn't you? A. Yes.

Mr. Stanchfield.— You overruled the objection.

The Chairman.—Yes. I think it is a very good objection, but the point is that the Committee wants to get all the information there is here, and we will allow it in.

Mr. Guthrie.— That is all.

Cross-examination by Mr. Stanchfield:

Q. Mr. O'Hanlon, was your attention called to the publication in the New York World of this statement of Mr. Connolly in May last? A. Whether my attention was called?

Q. Did you see that statement? A. Yes.

Q. Will you speak up so we can hear you? A. Yes, I read the statement in the New York World.

Q. You read it? A. Yes, sir.

Q. And you noticed in that statement practically a month before you were called before the Bar Association, Connolly's claim that he had been paying 55 per cent. of the net profits of a part of that business to Mr. Cohalan for such work as he could obtain for your company from the city of New York, didn't you? A. I did.

Q. And didn't you commence then to ponder on the subject as to whether or no you had ever been apprised of that fact, or whether you ever knew it? A. Yes.

Q. So that when you went before the Bar Association as a witness, you had been giving this, for some weeks, your attention; you had been giving your attention to that subject, hadn't you? A. In a way, yes.

Q. In a way. Now, you testified before the Bar Association in response to the inquiries, as Mr. Guthrie has read, that you had no recollection of ever having written this 55 per cent. letter? A. I did.

Q. You were at the time a one-half holder of stock in the corporation, weren't you? A. Yes.

Q. Interested in its business? A. Yes.

Q. Now, don't you think that if you had written a letter concerning 55 per cent. of the net profits of a concern in which you had a one-half interest, you would recollect it? A. I think I would.

Q. But you haven't the slightest memory of ever having read that — written that letter or having seen it put in the letter book, and you never heard of such a proposition, did you? A. Not that I can recall.

Mr. Stanchfield.— That is all.

Mr. Guthrie.— What is the answer?

The Witness.— Not that I can recollect.

Re-direct Examination by Mr. Guthrie:

Q. Mr. O'Hanlon, in the course of your statement before the Bar Association, referring to that letter on the 21st of June this year, page 190, do you remember this question put to you:

"Q. Don't you remember writing this letter that I speak of? A. No, sir. Q. But you won't say you did not do it, will you? A. No."

Q. Did you so testify before the Grievance Committee? A. Yes.

Q. You did? A. Yes.

Q. And that was true? A. (No answer).

Q. That statement you made to the Bar Association was true?

Mr. Stanchfield.— I object to that. What is the foundation for these continual insinuations to his own witnesses that there is some question about their veracity. I never knew that in a court of justice, or any other tribunal, you could ask the witness if he was telling the truth.

The Chairman.— All right. Next witness.

Mr. Stanchfield.— I have heard lawyers ask a witness whether that statement was as true as anything else he had sworn to.

Mr. Guthrie.— At this place I would like to say my attention is called to the fact that the statement was made this morning, when I tried to get in the O'Hanlon record, that it could be offered when Mr. O'Hanlon was on the stand.

Mr. Stanchfield.— Do you mean that suit of his?

Mr. Guthrie.— No, the deposition or statement before the Bar Association. I want now to offer and have offered in evidence, or if not in evidence, then for identification, the deposition or statement of the last witness before the Grievance Committee on the 21st of June, 1913.

Mr. Stanchfield.—You mean it is the same as you have just been reading?

Mr. Guthrie.—Yes.

Mr. Stanchfield.— I make the same general objection as before.

Assemblyman Levy.— Not as to its being marked for identification?

Mr. Guthrie.— I offer it in evidence. If it is excluded then I will offer it for identification. The first offer is in evidence.

The Chairman.— Have them marked.

Mr. Guthrie.— It is the statement that he made to the Bar Association, and which he has been cross-examined upon.

The Chairman.—Well, mark it for identification.

Assemblyman Levy.— It is excluded as an exhibit in evidence.

Same marked Respondent's Exhibit K for identification.

The Chairman.— Is this a long witness?

Mr. Stanchfield.—Yes, he will be a long witness.

The Chairman.—Well, then, suppose we adjourn to this evening, we would not finish before half-past five?

Mr. Stanchfield.— Oh, no.

The Chairman.—We will adjourn until quarter of eight and sit until 10:30.

Mr. Guthrie.— Make it eight sharp until 10:30.

The Chairman.— The Committee will adjourn until 8 o'clock this evening.

Thereupon the Committee at 5:15 p. m. adjourned until 8 p. m., at the same place.

EVENING SESSION.

The Committee reconvened at 8 P. M. pursuant to adjournment.

Appearances: Same as before.

The Chairman.— The Committee objects to having smoking in the room and also to people standing so close behind the chairs. The sergeant-at-arms is ordered to keep the places behind the chairs clear.

Alfred D. Cruikshank was called as a witness, and, having been duly sworn, testified as follows:

Direct examination by Mr. Guthrie:

Q. Your full name, Mr. Cruikshank? A. Alfred B. Cruikshank.

Q. And you reside in the city of New York? A. Nyack, New York.

Q. Do you practice law there? A. No, in New York city.

Q. And how long have you been a member of the Bar? A. Thirty-nine years.

Q. Practicing in New York? A. Yes.

Q. What is the name of your firm? A. Atwater & Cruikshank.

Q. And who are the members of that firm? A. Myself, Philip D. Atwater and Edward L. Blackman.

Q. I understand that you are a member of the Bar Association? A. I am.

Q. And you testified or made a statement before the Bar Association in the matter of the charges against Justice Cohalan? A. I made a statement there.

Q. In 1909 where was your office? A. 43 Cedar street, New York city.

Q. And your partner then was? A. Same as now.

Q. Would you kindly tell us what records you kept of your professional transactions then? A. We entered in blotters in the office in the first instance and they were transferred to a ledger.

Q. Have you the register in use in 1909? A. Yes, I have it here, but I have made a copy of the register.

Q. Which you know to be correct? A. Yes.

Q. And which is more convenient? A. More convenient to manage.

Q. It is a fact, is it not, that you also had a private blotter? A. No, it was not a private register, it was personal, on my desk for convenience, no more private than another.

Q. Were any details of consultation entered in that book? A. Everything went in the general register.

Q. Went in the general register? A. Yes.

Q. How long had you known John A. Connolly? A. In 1909 I had known him about twelve years.

Q. Had you ever acted for him professionally? A. Never.

Q. How long had you known Daniel F. Cohalan? A. About twenty years, I should think.

Q. You knew him to be an attorney practicing in the city of New York? A. Yes, sir.

Q. A member of the Bar? A. Yes, sir.

Q. And also a member of the Bar Association? A. I was not aware that he was a member of the Bar Association.

Q. In January, 1909, were you consulted by Mr. Connolly in reference to any claim, and if so, what claim? A. I was consulted by Mr. Connolly in January, 1909, and I am testifying now from my register, not from personal recollection, but I am satisfied that this is correct, if you will allow me to refer to that, I will be guided by it.

Q. Certainly? A. I was consulted on January 4, 1909, by Mr. Connolly, as president of the Victor Heating Company in regard to a claim which he had against Daniel F. Cohalan, the respondent here, for $3,940.55, as my register shows.

Q. And your register also shows, does it not, that you had a subsequent conversation? A. That is true, a number of them.

Q. On the 11th of January? A. Yes, one on the 11th and a number after that.

Q. And also it appears that on the 27th of January you received by mail a statement of facts from plaintiff? A. Yes, sir.

Q. You see that, do you not? A. Yes, sir.

Q. Where is that statement of facts? A. I don't know; I think that it was either returned to Mr. Connolly or destroyed. I am sure it was either returned to Mr. Connolly or destroyed.

Q. You recall, do you not, that the claim was a claim on behalf of the Victor Heating Company against Mr. Cohalan? A. I do.

Q. You recall, do you not that about the 12th of January, the President of the Victor Heating Company submitted to you the form of a letter which they proposed to write to Mr. Cohalan and that you promised to revise that letter? A. I don't remember the date; I remember the circumstance.

Q. You remember that you did revise such a letter, did you not? A. Yes, sir.

Q. Will you kindly look at Exhibit 27 and see whether that refreshes your recollection, Mr. Cruikshank, as to whether that is the letter of which you revised a draft? (Counsel passes paper to witness.) A. (After examining) Yes, this letter, dated January 12, 1909, is a letter of which I revised the draft.

(The witness here returned the paper to counsel).

Q. What examination, if any, did you then make as to the nature of the cause of action? A. I made no examination except to take Mr. Connolly's statement as to the facts.

Q. Did you examine the books of the company to see whether his statements could be corroborated? A. I did not. I had, however, as I think and as I remember now, I believe, a copy of an account against Daniel F. Cohalan, which I think has been referred to to-day by Mr. Connolly as a memorandum account. Here in his testimony to-day rather refreshes my recollection so that I now think I had a copy of that account furnished me by him; and I think that is all I had from his books.

Q. Now, will you please state to the Committee the nature of the claim which Mr. Connolly stated the company had against Mr. Cohalan?

Mr. Stanchfield.—Well, we object to that as hearsay and incompetent and in the absence of the respondent.

The Witness.—Well, I would like — I beg your pardon, before I answer the question I forgot to ask the Committee whether I am justified and required to answer any questions as to conversations with Mr. Connolly; I was his attorney at that time.

Assemblyman Levy.—You mean on the theory of privilege?

The Witness.—Yes, sir. And see whether Mr. Connolly waives it or what the Committee's rule is on that.

Q. You know, do you not, that Mr. Connolly and Company in pursuance of the provision of the Code have waived the privilege?

Mr. Stanchfield.— Waived it for us here?

The Witness.— I am not sure whether they waived it for us here. I want the Committee's ruling, if I can get it. They sent me a letter.

Assemblyman Levy.— He is entitled to that.

The Witness.— Mr. Connolly is here present.

Assemblyman Levy.— Where is the waiver before this Committee.

Mr. Guthrie.— I understand there had been an express general waiver. I have not seen it. What is the objection, please.

Mr. Stanchfield.— Let us have the question of waiver first.

Assemblyman Levy.— There is no objection, except the Committee would like to know if it has been waived.

Senator Blauvelt.— Mr. Cruikshank would like to know what his position is?

Q. You remember that you appeared before the Bar Association last month, do you not? A. Oh, yes, sir.

Q. Did you not then have submitted to you a letter which you had received from Mr. Connolly, waived any professional privilege.

Mr. Stanchfield.— Is there any difficulty about producing the waiver?

Q. You have the letter, have you not? A. I have a letter here from Mr. Connolly.

Q. Please produce it? A. I merely want the ruling of the Committee.

Q. Did you not testify then that you thought it was broad enough to cover — A. I stated to the Bar Association I was satisfied with it. Mr. Connolly was there present. I now appeal to the Committee whether that applies here, Mr. Connolly being present, and whether I ought not to have a waiver.

Assemblyman Levy.— Mr. Connolly is here.

The Witness.— I will take the ruling of the Committee.

The Chairman.— What have you to say, Mr. Connolly?

Mr. Guthrie.— Do you waive any privilege as between you and Mr. Cruikshank, as between client and attorney?

Assemblyman Levy.— And Atwater & Cruikshank.

Mr. Guthrie.— And Atwater & Cruikshank.

Mr. Connolly.— I waive everything under that section of the Code that they may desire.

Mr. Guthrie.— So he may freely disclose any communication you made to him.

Mr. Connolly.— You may disclose any communication I made to him.

Q. Is that satisfactory? A. That is satisfactory.

Q. Will you kindly state the nature of the claim against Cohalan?

Mr. Stanchfield.— We object to any conversation, not upon the ground that it is privileged between Mr. Cruikshank and Mr. Connolly, not in our presence, upon the ground that it is hearsay and incompetent. We are chargeable probably with notice of the contents of the complaint that was served upon us, but we are not charged in any sense or any degree with any conversation with Mr. Connolly and Mr. Cruikshank.

The Chairman.— That is true.

Mr. Stanchfield.— Whatever we knew was embodied in the complaint.

The Chairman.— How far does your question go?

Mr. Guthrie.— I think that is a good objection.

Q. Mr. Cruikshank, did you write a letter at any time to Mr. Cohalan in reference to this claim? A. I did.

Q. What was the first letter that you wrote him, is it the Exhibit No. 29 (paper handed witness) now shown you? A. The letter was dated January 26, 1909, and seems to be marked Exhibit 29.

Q. And did you subsequently receive a letter from Mr. Cohalan — by what number did you refer to this? A. 29.

Q. Did you subsequently receive a letter, an answer from Mr. Cohalan which I now show you and which is now numbered Complainant's Exhibit 31? A. On the next day, January 27th, I received a letter from Mr. Cohalan (paper handed witness) which was dated on that date and appears to be marked Exhibit 31.

Q. Mr. Cruikshank, where is the original of that letter? A. I do not know.

Q. When did you last see it? A. I do not remember.

Q. Do you not recall that it was in your office as late as February of this year? A. I do not.

Q. Do you recall that Mr. Connolly called at your office in February of this year and asked to examine the papers and correspondence in reference to that claim? A. I recall — I do recall that he came to my office about six months ago. I don't know whether it was in February or not, and asked to see those papers.

Q. It is a fact, is it not, that a number of the papers connected with this transaction have been destroyed about May 1st of this year? A. Well, I am not sure of that; I don't know what papers Mr Connolly took away at this time. He came and asked to take the files and to take papers away, and I turned the file over to him and told him to arrange with the stenographer to take such papers as he wanted, suggesting, however, that he leave copies of such as belonged to me, and I did nothing further about it, and I don't know what he took away. I know what you refer to,— about the 1st of May I was changing my office —

Mr. Stanchfield.— Just a moment, wait until we get to the 1st of May.

Q. You do recall, do you not, that you had some correspondence following that letter Exhibit 31 that I have just shown you, with the defendant in that case, Mr. Cohalan? A. Oh, I think I had no letters from Mr. Cohalan but that one; that is my recollection.

Q. Do you not recall subsequently receiving a letter from Mr. Cohalan making an appointment to meet Mr. Connolly in March?

Mr. Stanchfield.— Show him the letter.

A. You are right, there was one making that appointment.

Q. That slipped your recollection? A. Yes, a letter, merely making the appointment, I didn't regard that as of any consequence.

Q. When did you have your first interview with Mr. Cohalan in reference to this claim? A. May 3, 1909.

Q. Who was present? A. No one but myself.

Q. Will you please state to the Committee what occurred at that interview? A. I cannot remember the language at this time of either of us or even the substance of it. I can tell you in general terms what the result of it was but I didn't charge my mind with it.

Q. Did you tell Mr. Cohalan then the nature of the alleged cause of action which your clients— A. (Interrupting) No.

Q. (Continuing) The Victor Heating Company claimed to have? A. No, I don't think I did.

Q. You don't think that you discussed the nature of the cause of action at all? A. I don't think we did.

Q. What did you discuss? A. Our conversation began by some exchange of courtesies between us, and then, as near as I can recollect, Mr. Cohalan began stating how badly he considered himself treated by Mr. Connolly, and that he didn't owe him anything, or the Victor Heating Company, and that it was an outrage, and so on.

Q. You remember, do you not, that he told you then that he did not owe the Victor Heating Company anything? A. Well, substantially that. I wouldn't say he used that language, but he denied the claim in general.

The Chairman.— Mr. Cruikshank, will you speak a little louder, please.

The Witness.— Yes. I say, he said substantially that, that he didn't owe the Victor Heating Company, or Connolly anything,

but I couldn't say he used those words. He gave me to understand that very emphatically, that the claim was a trumped up one, and had no foundation.

Q. Well, in view of that statement of your fellow lawyer that the claim had been trumped up, and that he owed the company nothing, what investigation did you then make to ascertain whether or not the claim was bona fide or trumped up? A. I made no investigation.

Q. You were satisfied, then, to accept the word of Mr. Connolly, without any investigation whatever? A. Yes, sir, for the purposes of beginning an action I was satisfied with Connolly's word.

Q. You knew that the nature of the claim implied a very serious charge against the professional character of a lawyer?

Mr. Stanchfield.— I object to that.

The Chairman.— Sustained. State what you knew.

The Witness.— I knew nothing except what Mr. Connolly had told me about it, and that I have not been allowed to tell.

Q. Now, I will ask you what Mr. Connolly told you.

Mr. Stanchfield.— I object again to that. I haven't any objection to his stating what he said to Judge Cohalan.

The Chairman.— What is the question?

Mr. Guthrie.— I won't press it —

The Chairman (Interrupting).— Question withdrawn.

Mr. Guthrie.— Under the objection of the respondent's counsel, I won't press the question.

Q. Mr. Cruikshank, what was the next interview you had with Mr. Cohalan? A. May 7th; a conference with all three; we — I mean myself and Mr. Cohalan and Mr. Connolly — had a conference together at my office.

Mr. Stanchfield.— May 3d?

The Witness.— May 7th.

Q. That was quite a long conference, was it not? A. One hour.

Q. What occurred at that conference? A. A long talk between Mr. Connolly and Mr. Cohalan.

Q. You heard Mr. Connolly's testimony, did you not, in regard to that conference at your office on May 7th? A. I was so situated in this room that I couldn't hear distinctly.

Q. Now give us your best recollection of what was said by any of the parties present at that conference with reference to this claim of the Victor Heating Company against Mr. Cohalan? A. I will say generally that most of what was said did not impress me at the time as having anything to do with the merits of the controversy as a lawyer would look at it.

They talked about old times. They one moment seemed to be friendly and the next moment seemed to be on the eve of almost a quarrel. They spoke of family relations, of claims of gratitude and ingratitude; politics; what one had done for the other, and Mr. Cohalan insisted over and over again that the claim was a wrong one —

Q. "Blackmail," did he not? A. He even used the term blackmail. And that was the talk that went on, that kind of talk. It was not illuminating on the merits of the controversy at all. And they even talked about their families. Mr. Connolly said — excused himself in a way for urging the claim because he had a large family. Then Mr. Cohalan said that he had a large family, and so it went on.

Q. What if anything did you say when Mr. Cohalan stated that the claim was blackmail? A. I said in substance that I would not allow that to be said with reference to any claim made by our office. As far as our office was concerned, if he meant that I would not allow it to be said. Mr. Cohalan said at once he did not accuse us of anything of the kind. He applied that to Mr. Connolly solely.

Q. After Mr. Cohalan then stated to you in your hearing that the claim was blackmail, what investigations did you make into the merits of the claim? A. I made no further investigation at any time into the merits of the claim than I have already told you.

Q. Shortly after this, did Mr. Cohalan make you any offer of settlement, and if so, when and for how much? A. An offer of settlement was made — not exactly that — an offer of a thousand dollars was made by Mr. Cohalan to me sometime between that date and the 13th of May.

Q. Did you submit that offer to your client? A. I did.

Q. And what was done? A. Mr. Connolly told me not to accept it.

Q. And you so notified Mr. Cohalan? A. Yes.

Q. Was that followed shortly after by another offer, and if so when? A. On the 18th of May I received a telephone offer of $1,500 from Mr. Cohalan.

Q. He personally telephoned that to you? A. I think he personally telephoned it.

Q. And what did you do with that offer? A. That was submitted to Mr. Connolly and rejected.

Q. And you so notified Mr. Cohalan? A. I must have done so, though I have no record of it here.

Q. What was the next step in the progress of the negotiations? A. The next step was an interview between me and Mr. Cohalan at his office on the 25th of May by appointment. In the meantime there were applications from time to time of Mr. Cohalan for extensions of time and over each extension of time, over the granting of it, there was some little demurrer and objection on my part so that possibly the application and the granting of those extensions may be considered as having some effect on the negotiations.

Q. Then in the meantime you had begun your action under what date? A. On the 15th of March the summons and complaint was served upon Mr. Cohalan.

Q. By whom was that complaint verified? A. I cannot remember the name. It was some officer of the company.

Q. Wasn't the name Dr. Cutter? A. I think it was.

Q. Do you not recall that Dr. Cutter was elected an officer expressly for the purpose of verifying the complaint? A. I heard something of that kind, but I did not take part; was not present at the election, nor did I know anything about it except what was reported to me.

Q. Had you not advised that somebody should be elected for that special purpose? A. I advised that Mr. Connolly should not verify the complaint, neither Mr. Connolly nor Mrs. Connolly.

Q. Did you not advise that if necessary a new officer should be elected for that purpose? A. I very likely did, though I don't remember it.

Q. Will you kindly look at Exhibit 50, and state whether you wrote that letter to Mr. Connolly about its date, on March 11, 1909? A. Yes, I wrote this letter to Mr. Connolly about its

date, and on looking at this — to Mr. Connolly, and from looking at this I am now able to say that I told him in this letter, if necessary, to elect a new officer for the purpose of verifying the complaint.

Q. And you also told him that neither he nor Mrs. Connolly should verify the complaint? A. Yes; that is my recollection.

Q. Why did you want to avoid having Mr. Connolly or Mrs. Connolly verify that particular complaint?

Mr. Stanchfield.— I object to that as incompetent and hearsay, in the absence of the respondent, and what motives there were in giving that advice are not in any way binding upon us. We traveled a good way when we let the letter in.

The Chairman.— I sustain the objection.

Mr. Guthrie.— I think that in view of the subsequent action which we are about to prove of the demand by the defendant, that the complaint should be destroyed, this is important.

Mr. Stanchfield.— Wait until you prove that the defendant demanded the destruction of that paper.

Mr. Guthrie.— I have already proved it once.

Mr. Stanchfield.— You have not proved it at all. You proved that Mr. Cruikshank suggested it, if you will pardon me —

The Chairman.— You can bring that in later, if you find it necessary.

Q. Well, about March 15th, the original complaint which you had drafted was returned to you, verified by Dr. Cutter, as the officer of the Victor Heating Company, was it not? A. I think it was by Mr. Cutter, though I do not distinctly remember the name.

Q. And you thereupon attached a summons to that original complaint, and served a copy upon the defendant, Daniel F. Cohalan? A. I had that done in my office.

Q. And you retained the original complaint, yourself? A. Yes.

Q. Will you please produce that complaint? A. I have not got it.

Q. Where is it? A. It has been destroyed.

Q. When? A. On either the 27th or the 28th of May, 1909, and I think on the 28th of May.

Q. Now, Mr. Cruikshank, we will take up the interview on or about May 27th, at your office, at which you and Mr. Cohalan and Mr. Connolly were present? Do you recall such an interview? A. Yes.

Q. What is the entry in your register under that date? A. Shall I read the entry?

Q. If you will.

Mr. Stanchfield.— Not yet. I object to that. He has a perfect right to testify as to what was said at that interview.

Q. Well, then, will he state what was said at that interview?

Mr. Stanchfield.— Certainly, let him state it. There is no objection to that.

A. Well, unfortunately, I don't remember the conversation. I know what happened there, what was done.

Q. Well, what was, if anything, agreed upon at that time? A. A settlement was agreed upon of this case, of the case of the Victor Heating Company against Cohalan.

Q. Upon what terms? A. Upon terms of the payment by the defendant, Daniel F. Cohalan, of the full amount of the claim, $3,940.55, without interest or costs, and general releases to be given by — exchanged, I think, by the parties.

Q. What else? A. that is all.

Q. Was there not something said about the service of an amended complaint? A. Yes; that I don't consider to be part of the settlement. That was to be done first.

Q. Then, that subject was discussed at that interview? A. Yes.

Q. And is it not the fact that Mr. Cohalan wanted an amended complaint served before he would pay anything?

Mr. Stanchfield.— Now, wait a moment. I object to that as leading and calling for a conclusion. I haven't any objection to his stating the conversation.

Q. State what Mr. Cohalan said at that interview, or any other interview, in regard to an amended or different complaint? A. I think that it was discussed before this. I am pretty sure in my mind, though I cannot fix dates, nor remember the exact conversation, but I am quite sure in my own mind that before the 27th of May that was discussed between myself and Mr. Cohalan, and

the substance of it was that he said that he would never pay anything on the claim as it was presented by the original complaint, and that some arrangement or means would have to be adopted to satisfy him in that respect before he would pay anything, and that he did not admit the claim and would not pay on that complaint.

Q. Did he not also state that an amended complaint must be served before the settlement would be consummated? A. Well, I don't say that he said that. It may have been that I suggested that.

Q. But at any rate you and he agreed that as part of the settlement an amended complaint should be served? A. Yes, because I was very anxious to get the case settled, to get the money for my client, and I was active in inventing means to satisfy Judge Cohalan's — Mr. Cohalan's notion or objection on that subject.

Q. Are you able to state from recollection the contents of that complaint. A. I am able to state in a general way what it was.

Q. Well, state it as well as you can now recollect it? A. As I now recollect it, it was founded upon the old equitable action to recover money had and received, and it was worded something in this way: That the defendant had at some dates that were mentioned there, I think all the dates that are referred to in that letter; I think all the dates that are referred to in that letter were mentioned.

(Witness indicates letter.)

Q. Were mentioned in that complaint?

Mr. Stanchfield.— Let him go ahead. He is getting along all right.

The Witness.— I think in the original complaint I stated that on the dates hereinafter mentioned, the defendant had received the following sums of money to the use of the plaintiff and its account — for its account, and for which it was indebted to the plaintiff, and mentioning the sums — mentioning the sums mentioned in this letter of January 12, 1909, and the dates therein, being eight sums of money amounting to $3,940.55; and then in addition, as I considered that that complaint would not be good under the decisions in the State of New York, which required something specific to show that there was a good cause of action,

I think I stated that this money had been paid to the defendant by one John A. Connolly, on the defendant's promise, and upon the pretense that he would obtain certain contracts or perform certain services; something to that effect. And it was that language that Mr. Cohalan objected to. Now, that is as near as I can remember, after thinking a great deal, and trying to refresh my memory by talking with my partner, and by every means in my power, and that is substantially what it was.

Q. Then, according to your recollection, the only objectionable language in that complaint was what you have just referred to? A. The objectionable language was that this money had been in substance obtained by a pretense on the part of the defendant that he had obtained certain contracts, or something to that effect.

Q. Didn't it say contracts from the city departments? A. No, I am quite sure I did not say that. I endeavored to — because I had it in my mind to make it as little offensive as possible —

Q. And yet effective? A. And yet effective and to draw an answer, compel an answer.

Q. Mr. Cruikshank, is it not the fact that Mr. Cohalan said to you before this settlement, "I want to be protected. I want no scandal or talk about this thing and I want an amended complaint served withdrawing that language." A. I cannot say he used those words because I have no memory to state what language he used.

Q. Did you not so state three weeks ago before the Grievance Committee?

Mr. Stanchfield.— I object to that.

The Witness.— I would like to answer that.

The Chairman.— Objection sustained.

Mr. Guthrie.— I think I have a right to ask the witness if he didn't —

Mr. Stanchfield.— They have ruled against you.

Mr. Guthrie.—Make a contrary statement.

The Chairman.— I am ruling against the form of the question. I think you ought to draw out of the witness first all that he remembers.

Mr. Guthrie.— I thought I had.

Q. Can you remember anything more that passed between you and Judge Cohalan in regard to the destruction of the complaint and the service of an amended complaint or anything else? A. If you will call something to my attention, Mr. Guthrie, on which you wish me to testify, possibly I can. I cannot think of things now without something being called to my attention.

I remember, if you want a general statement, I remember that Mr. Cohalan objected and said he would not pay money on that charge and that I then — it became part of my business to get the money for Mr. Connolly if I could, to invent some scheme which would satisfy, or something which would satisfy Mr. Cohalan on that point. Mr. Connolly was extremely anxious for the money. He said he was desperate and I wanted to satisfy him and get the money for my client, and whether he first said "You may serve an amended complaint," or whether I first suggested it or how that came about I don't know, but I know there was — I believe there were several suggestions made on that subject, none of which were adopted until this amended complaint, I think, came up.

Q. But you understood from him, did you not, that he wanted a different complaint? A. Yes, sir. Well, I won't say that. He wanted in some way to be relieved from a possible claim hereafter that he had admitted the truth in the charge of that original complaint and there were talks I think of discontinuing the action altogether, and one thing and another.

Q. Is that all of your recollection upon the subject? A. Well, that is all that I can think of now that is material. If you will call my attention to anything else I will try to remember about it.

Q. Is it not a fact that before the settlement Mr. Cohalan insisted as a condition of the settlement that the amended — that there should be an amended complaint? A. Well, I would not call it insisting. It became a part of the agreement for settlement. I cannot say that he insisted, I can't say who proposed it, it was finally accepted and adopted as part of the conditions on which a settlement should be made.

Q. Now, when the terms of settlement were agreed upon at your office on the 27th of May, what was done? A. I then proceeded to prepare an amended complaint and general releases, I think. I know I prepared the amended complaint and I think I prepared the releases and had the amended complaint verified by Mr. Connolly. Shall I proceed?

Q. And that was done in your office under your direction? A. Yes, sir.

Q. And that amended complaint was for money loaned? A. Well, I think the complaint is in evidence, I would rather refer to that.

Q. You rather refer to it? We will show the complaint to you as served upon Mr. Cohalan. A. I think it was for money loaned and advanced, something like that. It has been read here in my hearing and it is the amended complaint read here in evidence.

Q. You might look at the copy that I have and state whether that is the amended complaint (handing paper to witness)? A. This is it, except that this copy is not signed or verified and the one that was used was signed and verified.

Q. The one that we will produce in a minute. And that is the form of the verified complaint which you served? A. Yes.

Q. At that time you knew, did you not, that Judge Cohalan had not borrowed $3,940.55 from the Victor Heating Company?

Mr. Stanchfield.— I object to that as incompetent and improper and that he has no right in any way to attempt to reflect upon his own witness. The complaint speaks for itself.

The Chairman.—What is the question?

(Question read as follows): "At that time you knew, did you not, that Judge Cohalan had not borrowed $3,940.55 from the Victor Heating Company."

Mr. Stanchfield.— The theory of that case might warrant a lawyer either drafting the complaint there upon either ground. He might frame a complaint for money had and received or he might frame a complaint for money advanced. The facts would fit either complaint. He has not any right — there is nothing indicated here that gives him a right to impeach this witness in any way, or try to. Of course that is only a preliminary question but that is what it is leading up to.

The Chairman.— Read the question again.

(Question again repeated as above).

Mr. Stanchfield.— Let me illustrate if the Chairman pleases, a second: Here is Mr. Guthrie proving by this witness, that there was a bitter colloquy between himself and Cohalan, and between Cohalan and Connolly in his presence in which Cohalan was

expressly asserting that he never would pay under an allegation for money had and received, upon a pretence that he had performed certain services, and had not rendered full value received; and insisting that before he would pay some means must be devised. Now upon that state of facts, upon what theory has counsel a right to ask this witness whether he didn't know that Cohalan had ever borrowed that money?

The Witness.— (Interrupting) I hope the Committee will let me answer the question.

Mr. Stanchfield.— I am not concerned about that. We are proceeding here under certain rules, that the rules of legal evidence shall apply.

The Chairman.—Yes, I know, but we want to get the facts of this case, Mr. Stanchfield, and to get them as best we can.

Mr. Stanchfield.— The Chairman will pardon me, because you have adopted rules here saying that the legal rules would obtain, and that is the reason I am making this objection. Of course if they are waived, why that is another matter.

The Chairman.— There is nothing to indicate to the Committee up to this time, from this witness that there is anything adverse in the witness from the witness' statement.

Mr. Stanchfield.— Not the slightest.

The Chairman.— The credibility of the witness is conceded when he is placed on the stand, and he is vouched for by those who put him there. I don't know whether this goes to the credibility of the witness or not.

Assemblyman Levy.—What is the purpose, Mr. Guthrie, of that question if it is not to impeach the witness?

Mr. Guthrie.— One of our charges is that this witness conspired, agreed, if you prefer the word "agree" with Judge Cohalan to cook up a bogus complaint, have it sworn to, clearly a perjury, and serve it, so as to make a record and cover for a settlement.

Mr. Stanchfield.— That illustrates precisely what I had in mind when I made the objection.

Assemblyman Levy.— Absolutely.

Mr. Stanchfield.— And when Mr. Guthrie put the word "conspired" in those charges, he did not have the nerve to stick to it, and withdrew it, if you can believe what is said in the newspaper press.

The Chairman.— I am willing to rule for the time being, with the proviso that it is subject to reversal a little later on. Proceed.

Q. You advised Mr. Connolly to verify that complaint, did you not? A. I did.

Q. And Judge Cohalan had told you repeatedly that he did not owe the Victor Heating Company a dollar? A. I would not say that he had used the expression that he had not owed a dollar, that he had used that language; he said he did not owe this money that they had claimed here, which amounted to that he did not owe them anything.

Q. Did he admit he owed them money in respect of any claim or for any consideration? A. He did subsequently, when he and Mr. Connolly agreed to treat it as a loan, as in this case, and came to terms on those facts. They accepted the facts. I do not know what the facts were. They did, and when they —

Q. He had written you, Mr. Cohalan had written you on the 27th of January, 1909, had he not, "I owe them nothing in any way?" A. Yes.

Q. "And am at a loss to understand such demand?" A. Yes. And he afterwards said he would pay it on this claim here.

Q. He afterwards said he would pay it if the complaint were amended, so as to set forth a loan to him of $3,940.55? A. Certainly, and Mr. Connolly agreed to it.

Q. And that was the reason why you prepared this complaint? A. Because they agreed on the facts.

Q. And Judge Cohalan said he would stand for the complaint if such a complaint was served? A. Yes, and that was the agreement on the facts by the parties interested. I do not know the facts. They did know them.

Q. Then you understood Judge Cohalan to agree at that time that he had borrowed $3,940.55 from the Victor Heating Company? A. He agreed at that time that he had received that money from the Victor Heating Company, which never was denied, and both the parties agreed that under the circumstances it was to be treated as an advance and a loan, and they settled it on that basis, and I had a perfect right to accept their statements.

Q. And you understood from him that he had received that amount of money, $3,940.55, from the Victor Heating Company? A. I understood —

Mr. Stanchfield.— Wait a moment, I object to the repetition of that. He has just answered that question.

The Chairman.— Let him answer it again.

The Witness.— I understood it was not denied that he had received these various sums of money. Whether he had received them or not, he did not come there prepared to deny it. As far as I was concerned, that is all I had to say about it. I was the plaintiff's attorney and not the defendant's. The plaintiff's attorney, the plaintiff's attorney, himself, is the representative, the president, he was willing to treat that as a loan and advance, he knowing the facts and nobody knows them, except those two men, not even yet, what the facts were. That I think exonerates me, justifies me, no matter what they said before that, or what their various statements were, they came to a settlement, and it was agreed on the one part, and on the other part, that those sums should be considered as having been received by Cohalan; that they should be considered as having been advanced or paid by the Victor Heating Company, and that they would be settled on the basis, that the claim would be settled on the basis of a loan, of money loaned, if I would draw an amended complaint, and why any lawyer should stand in the way and keep his client from getting the money when it was offered to him under those circumstances, when the parties agreed upon it, I am at a loss to understand, or why it should be considered conspiracy for a lawyer to draw a complaint which both parties agreed substantially contained the truth.

Q. After you had gone — A. (Interrupting.) That is my answer to the imputations made here in this ridiculous way.

Q. Mr. Cruikshank, after you had drawn this amended complaint and had it verified in pursuance of this settlement, what did you do with it? A. I took it over to Justice Cohalan's office and served it there as an amended complaint.

Q. Now, what occurred at that time? A. The original complaint — the copy of the original complaint which was in the possession of Mr. Cohalan or of his attorneys, I don't remember which, was then produced and destroyed.

Q. How came that original complaint to be destroyed? A. The copy was destroyed there; Mr. Cohalan's copy was destroyed.

Q. How did you come to do that? A. By arrangement between us.

Q. Between us, you mean by that, yourself and Mr.— A. (Interrupting.) Myself, Mr. Cohalan and Mr. Connolly.

Q. Then it was agreed between the three of you that the original complaint should be destroyed? A. That was arranged at the time the amended complaint was served; I don't think that there was an agreement about that beforehand, but it was suggested, that as the original complaint was superseded by the amended complaint and Mr. Cohalan objected to the language of the original complaint and said it was not true and so on, that the original complaint should be destroyed and the copy that he had was thereupon destroyed and I —

Q. (Interrupting.) That was in Mr. Cohalan's office? A. In Mr. Cohalan's office.

Q. Destroyed by you in his presence? A. Well, I don't know which of us destroyed it. I think I destroyed it, but I am not certain; it might have been by anybody there; and I promised to destroy the original complaint which was in my office, on my return.

Q. What else — A. (Interrupting.) And then at this same time the money was paid me by Mr. Cohalan.

Q. Was it in bills or by check? A. In bills.

Q. How much? A. In bills.

Q. How much? A. $3,940.55; and I receipted for that on the amended complaint which I had just served on the copy of the amended complaint which I had just served and delivered — the releases were then exchanged or delivered; I delivered a release to Mr. Cohalan at that time; I don't know whether we got a release back or not; I thought there were two; I don't see anything here about it (indicating papers before witness).

Q. And then, to make the story complete, what did you do with the money? A. I took the money to the Chatham Bank and deposited it.

Q. And the next day you sent the amount, less about $500, to the Victor Heating Company? A. Yes, sir, a check for the amount; I gave it to Mr. Connolly, the check, the next day. I didn't send it, I think; I gave it with a statement.

Q. Where is the original of the amended complaint?

Mr. Stanchfield.— Why don't you complete that, that later he loaned Connolly the $500?

Q. Where is the amended complaint verified by Mr. Connolly? A. I don't know where that is.

Q. When did you last see it? A. The last time I saw it was when Mr. Connolly took my files to look them over and to take out what papers he wanted.

Q. That was in February? A. What is that?

Q. That was in February of this year? A. In February of this year.

Q. Since the publication of these alleged charges, you made a search in your office for that amended complaint? A. I had a search made.

Q. And you were not able to find it? A. No.

Q. You are not able to produce it in response to the subpœna that was served upon you? A. No.

Q. My attention is called to the fact that you testified that you promised Mr. Connolly to destroy the original copy of the first complaint; did you subsequently destroy the original of the first complaint? A. I destroyed the original complaint that very day, as I recollect it; after I got the money from Mr. Cohalan I deposited it and went to my office and I think I tore it up at once.

Q. Have you stated all that occurred according to your recollection at Mr. Connolly's office at the time the — at Mr. Cohalan's office at the time the money was paid over and the settlement consummated?" A. All that I remember at this moment and all that I find any indication of on my register.

Q. See if I can refresh your recollection. Do you recall stating three weeks ago to the Grievance Committee of the Bar Association the following:

Mr. Stanchfield.—Well, now —

Assemblyman Cuvillier,—What page is it?

Mr. Guthrie.—155.

Mr. Stanchfield.— I object again to this method of examination.

The Chairman.— Objection sustained. Just call his attention to what he stated before the Bar Association. As I understand, you said do you recall —

Mr. Stanchfield (Interrupting).— Mr. Guthrie proposes to do indirectly that which he knows perfectly as a lawyer he hasn't the right to do directly. You can't find any decision that gives you that right.

Mr. Guthrie.— Well, I will read the decision of Judge —

Mr. Stanchfield.— There is no such case.

Mr. Guthrie.— I will give it to you.

Mr. Stanchfield.— He has not exhausted this witness' recollection. He has a right to go on and ask him whether that was all.

Mr. Guthrie.— Haven't I asked him twice whether that was all?

The Chairman.— I may be wrong in my understanding of the situation, but I think, Mr. Guthrie, your reference was, is that all that you can recall of the conversation that took place with Mr. Cohalan — Mr. Connolly, at Mr. Cohalan's office?

Mr. Guthrie.— At Mr. Cohalan's office when the settlement was consummated. I have asked him to give me everything that he can recall. Now, I want to refresh his recollection by a statement that he recently made and that is in that statement. And even if that statement is contradictory to which he is now stating I would be entitled to it.

The Chairman.— The point is this: I think the witness is entitled to have you call his attention to that statement that he made and then if he doesn't remember that statement —

Mr. Guthrie.— That is what I was about to do.

The Chairman.— I will exhaust his recollection first.

Q. Will you kindly look at page 155 of the record before the Grievance Committee and state whether or not you made the statement beginning with the question: "Wasn't that what you had in mind?" A. (After examining book) I have looked over this. This afternoon or this evening I looked over this record from the Bar Association and it seems to be substantially correct.

Q. Then I may assume that you did make the statement that appears printed there on page 155? A. Yes, or on any other page where I am supposed to have made a statement. I think I made that statement although I cannot remember it, but I have no doubt that the stenographer got it right; it reads all right.

Mr. Guthrie.— I would like to read that statement to the Committee (reading):

"Q. Wasn't that what you had in mind when you said 'Besides which I think I can make some further suggestions with the same object in view?' Wasn't the object in view the cancellation of the evidence referring to these prior transactions? A. No, there was never any question or discussion about that. At the close of the case, and when he paid the money, Mr. Cohalan said: 'Well, now, if there are any papers or anything here which could be used to annoy me hereafter or could be used in a political scandal, in Mr. Connolly's hands, they ought to be destroyed.' He said, 'I am to be protected;' and I said: 'You shall be protected and I will speak to him about it.' That was the understanding when he paid the money." Did you make that statement? A. Yes.

Mr. Stanchfield.— Wait a moment, finish the paragraph.

Mr. Guthrie (Reading).—"There was never any question about it before." Will I go on, Mr. Stanchfield?

Mr. Stanchfield.—Well, that is the end of the paragraph. I am not concerned whether you go on or not.

The Witness.— That refreshes my recollection now that something of that kind was said. After the money was paid and the whole thing was closed, as I was about leaving, Mr. Cohalan said to me, Now, I depend on you that if there is anything there — I cannot use his language though it seems, before the Bar Association, where I was talking — where I was not under oath, and where I was talking in a way where I considered I was informing the Committee in a general way — I seem to have used language which is quoted here, but I cannot of course state just what he said; but he said in general terms if there is anything there which could be used to my detriment, or something of that kind, statements or matters which I understood from that that he meant something that might get in the newspapers, I wish you would have it destroyed. I said I would destroy the original complaint and that I would anything of that kind. When I went back to the office I had that in mind and did it as I now recall it.

Q. (Turning to page 166) The question: "Q. Is it 'copy' or 'original?' Isn't it 'Copy and original destroyed?' A. No, 'copy original complaint destroyed there.'" You were then testi-

fying with reference to the entries in your register, were you not? A. Yes. They were not what we destroyed in Mr. Cohalan's office; what was destroyed there was a copy of the original complaint, and not the original.

" Q. That is not like Mr. Cohalan's attitude at all. He did not insist on watching me at all, but he said, 'I depend on you; I depend on your office; I depend on you to see this thing is carried out, and whatever there is that could make trouble for me, is destroyed and ended.'" A. Yes, I answered that in response to a suggestion by some member of the Committee, or by Mr. Chrystie, as to why Mr. Cohalan did not follow up and see that the original complaint was destroyed, in my hands. I said he was not watching me at all, he depended upon me to do that and destroy that original complaint, which he had always objected to, and I did.

" Q. And whatever else might give him trouble?" A. Yes.

Q. Now, in pursuance of that agreement with Judge Cohalan, as I understand, you destroyed the original complaint? A. It was not an agreement, it was simply it was left to my judgment and honor.

Q. And what else was destroyed, so far as you can recollect? A. Well, I can't remember. When I went back to my office, I looked through my files, and I destroyed the original complaint, as I say. I can't remember anything else. But it is possible that I may even have destroyed any memorandum or statement of the facts, or anything which would contain any paper which I might have made up, which would have contained a statement of these same facts, which might be used to injure Mr. Cohalan or his party politically, or to cause a newspaper scandal. If I found anything of that kind in looking through the files, I certainly destroyed it, because that was my intention; leaving the amended complaint, the other papers, the correspondence, and the rest of it.

Q. Your register shows, does it not, Mr. Cruikshank, that on the 27th of January, as you have testified, you received a statement of facts from the plaintiff? A. Yes.

Q. Now, can you recall whether and when you destroyed that statement of facts? A. No, I cannot say that I did destroy it, because it might have been that Mr. Connolly took it away at some time or the other; but I am very certain that if I found it there that afternoon, when I was looking through the files that I would have very likely have destroyed it, pursuant to what I considered

to be right to Mr.— proper to Mr. Cohalan and to my office. I did not intend that any office boy, or managing clerk, or stenographer in my employ, should sell a story to the newspapers, and use my office, or any papers in my office, as a basis for it.

Q. You considered that story would be injurious to Mr. Cohalan, did you? A. I did; it would annoy him, and that is enough to me. He was entitled to his bargain. He paid for it, and it was enough that he would be annoyed about it, that was enough. I would not have been able to face him on the street afterwards, if anything of that kind happened through my office.

Q. After this statement you have testified to, do you remember going one evening to the office of the Victor Heating Company? A. I do.

Q. Who was present? A. Mr. Connolly went with me, no one else was present.

Q. Anyone else present? A. No, not that I know of. There might have been.

Q. Do you recall that the safe was open? A. No, I do not.

Q. What did you do there that evening? A. Mr. Connolly and I talked there, and I waited for him, and I think I came away with him.

Q. Had you ever been there before? A. I am not sure about that, whether I was there once or twice.

Q. Have you ever been there since? A. No, I might have been there twice. I don't know which occasion you refer to; I only remember once.

Q. Are you prepared to state that you did not then examine the books and papers of the company in connection with this claim against Mr. Cohalan? A. I am. This occasion I speak of was when Mr. Connolly and I were on the Committee of One Hundred, weeks or possible months after this affair, was entirely closed, and it is not possible, as I can imagine, that we went over papers or books then in regard to this case, which was settled, I supposed, and buried forever. I have no recollection of anything of the kind, and it is not likely or reasonable.

Q. Mr. Cruikshank, did you several times tell Mr. Connolly that if he had anything that could be used against Mr. Cohalan in this case, after Mr. Cohalan had bought his peace, that you considered you were bound, "he and I in honor to withhold it from publication, and if possible to destroy it?" A. I did tell him that several times.

Q. You told him that several times? A. In substance something like that, not in so formal language as that, but I several times told him, "Now, Mr. Connolly, you must be sure that nothing gets in the newspapers here." I was afraid of some of the people in his employ, and I was afraid of some of the people I had heard him talk about, whose names have been mentioned to-day, McNulty, or some such people, and he had been talking to me several times about the possibility of publishing this thing in the newspapers before the settlement was made, and therefore several times I said to him, "Now, Connolly, you must be careful that nothing of this kind gets into the newspapers; no story against Mr. Cohalan, because our office collected this matter for you, and it was an understanding that that was to be the end of it," and he promised me faithfully over and over again, and agreed with me fully on that point.

Q. Did you state to Mr. Connolly that the checks ought to be returned to Mr. Cohalan or torn up? A. No, there was no check to be returned to Cohalan that I have heard of. I understand now, just as I always understood, that there was no check connecting Mr. Cohalan with this.

Q. There might be a check, might there not, which would show the withdrawal of the money from the bank if the payment had been made in cash? A. Oh, yes; there might be, but I was not looking for anything of that kind.

Q. When you drew this complaint, did you make any inquiry for the checks which you say, the payments that you were returning? A. No, I did not, Mr. Guthrie. I took Mr. Connolly's word for it, and I believed him. I had confidence in him, and I believed his statement that he had paid these moneys to Mr. Cohalan, and he always said he would never admit it, and if you begin the action, you will find he admitted it.

Q. Did Mr. Cohalan ever contradict the receipt of the moneys? A. He never did in my presence, but might have done so to Mr. Connolly.

Q. He never contradicted the actual receipt of the money? A. He made no statement to me in contradiction of it.

Q. You had four or five interviews with him in relation to this subject? A. He never did, but I will say we never went over it and asked questions about it, nor were the amounts ever discussed.

Q. And you saw him four or five times in reference to this claim? A. Three times.

Q. You recall three times, and then two interviews at which Mr. Connolly was also present? A. Not from the number of interviews. I have testified to them.

Q. You have already testified to that, but at none of these interviews, did he ever admit to you that he had really received the money from Connolly? A. No.

Q. Did you not state, if you will refer to the bottom of page 178 of the statement before the Grievance Committee of the Bar Association, did you not state, "It is possible at some time I may have said those checks ought to be returned to Mr. Cohalan or torn up." A. Yes, I said that, and I withdraw it now. On reflection, I never could have said anything of the kind. At the Bar Association meeting, I was not as conversant with the facts as I am now, but since I have learned there were no checks to the order of Mr. Connolly, I know I never could have said any such thing.

Q. Is there any other statement contained in this report of your testimony before the Grievance Committee which you think needs qualification or correction? A. I am more clear on some things now than I was before the Grievance Committee. Nothing I want to change, but some things I would make more positive than I did there. I have talked with my partner about this, have considered about it, have listened to testimony here, have read my letters over, which I did not at that time, with some thought, have thought it over, and some things I know a little better than I did then or at least my mind is clearer on them.

Q. You have, as far as we are concerned now, every opportunity to make any statement that you see fit? A. I am not interested in this case one way or the other, to make statements. I do not understand that my testimony before the Bar Association, is in evidence here.

The Chairman.— No, it is not.

Mr. Guthrie.— I shall offer it.

Mr. Stanchfield.— It won't go in, Mr. Cruikshank.

The Witness — I will answer any questions now. I prefer —

Mr. Guthrie.— I intend to offer it in evidence.

Mr. Stanchfield.—You offered the whole record, but you did not get it in.

Mr. Guthrie.— I offer that part of the record of his testimony before the Bar Association, and I think it is admissible.

The Chairman.— Do you think that that is legal evidence now?

Mr. Stanchfield.—You have made several offers of that kind.

The Chairman.— Under the conditions here?

Mr. Guthrie.— I do. The witness has testified he gave an account of this transaction before the Grievance Committee that he has read that over, and that it is substantially correct, and I think under all the circumstances, that it is legal evidence.

The Chairman.— Is there anything that you want —

Mr. Stanchfield.— Do you assert that you think that is legal evidence, as a lawyer?

Mr. Guthrie.— In this matter, I do.

Mr. Stanchfield.— I am surprised that anyone who claims to be a representative of the Bar Association would make that statement in this tribunal.

The Chairman.— Let us proceed. Have you anything further?

Mr. Guthrie.— I have.

The Chairman.— Then let us proceed.

Q. Is there anything that you desire to add in explanation of your statements before the Bar Association?

Mr. Stanchfield.—What becomes of this very remarkable offer, Mr. Guthrie?

The Chairman.— There is no offer. We are merely discussing what Mr. Guthrie intends to do later on.

Mr. Guthrie.— I am going to argue it later. I am not going to take up time now.

Mr. Stanchfield.— I understood you to offer it now, and to assert it is legal evidence.

Mr. Guthrie.— I do.

Mr. Stanchfield.— I should like some authority better than yourself.

Mr. Guthrie.— I would refer you to some of the writers on ethics.

Mr. Stanchfield.— Not in your estimation, Mr. Guthrie.

The Chairman.— Come to order, gentlemen.

Q. Mr. Cruikshank, what transaction did you have subsequently with Mr. Cohalan, in connection with Mr. Connolly or the Victor Heating Company? A. Subsequent to this time?

Q. By the way — in reference to your recollection, you have conferred with Judge Cohalan in regard to the matter, have you not? A. No, I haven't.

Q. You have conferred with his attorneys? A. No, I have not. I do not consider that I conferred with them.

Q. You talked with them? A. They sent for me and asked me questions, and had a stenographer there, and I answered the questions.

Q. And they asked you to make a statement, I understand?

Mr. Stanchfield.— Haven't you subpœnaed Mr. Quinn to produce the statement? Why don't you put him on the stand?

Mr. Stanchfield.— I tell you if you put him on the stand he will rile you.

Mr. Quinn.— I am very anxious to testify. I am very anxious to testify. I want to know whether you subpœnaed me, whether you are responsible for that. I want to know that, and I will be delighted to testify, and have you examine me.

The Chairman.— We will proceed with the investigation.

Q. I want to recall your mind to the actions in connection with the note on April 5, 1911, for $4,000, which has figured in this matter. It has been testified that Mr. Connolly consulted you in regard to that matter at the suggestion of Judge Cohalan. Do you recall that he did consult you? A. Do I recall that he consulted me?

Q. At your house? A. I cannot remember his being at my house.

Q. But do you remember his consulting you as his lawyer? A. I remember distinctly his being at my office, and he may have been at my house, I don't remember it.

Q. But at any rate he consulted you about giving a note up to Judge Cohalan for $4,000, didn't he? A. He did.

Q. And you undertook to advise him in regard to that matter? A. He asked me to advise him as a friend, I think.

Q. And you did advise him? A. I did advise him.

Q. You knew then, did you not, that he was a bankrupt? A. Yes, sir.

Q. No means whatever? A. Yes.

Q. You knew that his note was utterly worthless? A. I did.

Q. Now did you draft the note for him? A. Why, I cannot remember whether he drafted that or I drafted it.

Q. At any rate he signed a note and gave it to you, did he not, for $4,000? A. Yes.

Q. Payable in four months to the order of Daniel F. Cohalan? A. Well, it was a note for $4,000 payable to the order of Daniel F. Cohalan. I don't remember whether for four months or what.

Q. What did you do with that note? A. I took it around to Mr. Cohalan.

Q. And was that the first time you had conferred with Mr. Cohalan upon the subject of the note? A. I can't remember whether I went to ask him about it first or whether I first saw him when I had the note I think that the first time, I think I went around with the note.

Q. At that time you had no so-called estoppel affidavit with you, did you? A. No. sir.

Q. Now what occurred when you saw Judge Cohalan in regard to that note? A. We had a conversation about it.

Q. What was said by you and by him? A. Well, I will have just to give you the substance of it in general language, I can't remember the conversation.

Q. Give it as well as you can recollect it? A. It was this, that Mr. Connolly had come to me, and asked me to take this note to Judge Cohalan; that Mr. Connolly had told me that his friends had been interceding with Judge Cohalan, or with Judge Cohalan's friends to restore the old friendly relations, and that it had been arranged, that Mr. Cohalan should be satisfied in regard to this old money that stood between them as it has been called, $3,900 and so forth by giving him a note, as Mr. Connolly could not pay him; and that Mr. Connolly had told me that Mr. Cohalan would not take the note unless I delivered it, as I had been the attorney in the original transaction; that he wanted the restitution to come from my hand; and I said "Here I am, and here is the note." And then Mr. Cohalan began, as he always did, when this thing came up, began to abuse Connolly and criticize him, and find fault with him, and discuss

the old transaction, and say how he had been ill-used and all that; and he was always cross and disagreeable about it whenever Connolly's name was mentioned; and then he said he would not take it then without an estoppel certificate. And that is my recollection, and yet I am not certain whether I saw him twice, or whether Mr. Connolly was with me on one interview; or whether I saw him alone, without Mr. Connolly but I do remember seeing him alone without Mr. Connolly; and whether there was another interview and Mr. Connolly was with me, I can't remember. I remember though, seeing him alone with that note and I remember his refusing it in consequence and demanding the estoppel certificate.

Q. By estoppel certificate you mean an estoppel affidavit? A. Yes, sir.

Q. Did you discuss with him the fact that Connolly was worthless and that the note would not mean anything? A. Oh yes, I think I did; I think I said to him "If this will satisfy you, why I have advised him to give it to you. I would like very much to see your friendly relations restored, because," I said, "Mr. Connolly tells me that he is in actual need and that he needs to get back his friends and to get some employment somewhere; and I think that it would be a good thing for him if you were all friends again, and possibly you could help get him something to do or something of that kind."

Q. Did he tell you that a worthless note was not good enough? A. No, no, he didn't say that. He said he would not take it, without an estoppel affidavit; that he would not trust Connolly, and that he wanted him to acknowledge in every way, that that money was wrongfully obtained, belonged — did not belong to him, belonged to Mr. Cohalan.

Q. Mr. Cruikshank, did Judge Cohalan then tell you "I would not accept the note which Connolly offered, unless it were accompanied by some declaration that would show his former statements about me were false?" A. Well, he may have said that. I understood that is what he wanted, the estoppel affidavit, that is what he wanted it for, to fortify himself in every way, and to compel Connolly to admit that this money was wrongfully obtained, originally, and that he owed it to him.

Q. Why not have a straight affidavit acknowledging that the former charges were false? Why this circumlocution of a cer-

tificate or affidavit of estoppel to a note? A. I cannot answer that, Mr. Guthrie, but if you will permit me I will say that at the time without desiring to criticise the gentleman now in the bench, I thought it was an ill-advised demand upon his part, I thought it was a useless form, and I so told Mr. Connolly when he called for it.

Assemblyman Levy.— What value would such an affidavit be if they took it, even if it were taken, if it were not true in any part, what value would it be?

Mr. Guthrie.— Neither affidavit would be true, but if a man wanted an affidavit of withdrawal of charges that had been made two years before, the proper way it seems to me would have been to ask for the withdrawal of those charges directly, and not in an indirect way get an affidavit of estoppel attached to a note of $4,000, that is the natural way to do it.

Mr. Stanchfield.— That depends upon the glasses through which you are looking.

The Chairman.— It is a matter of choice?

Mr. Stanchfield.— A matter of choice.

Q. Did Mr. Cohalan — this was before Mr. Cohalan was judge — state to you that he never intended to make any use of the note? A. Well, I am not sure, I think he did,— I think he did. I think he said he merely wanted that note, and an acknowledgment that he had been wronged and he was in the right and Connolly was in the wrong or something like that, I think he did.

Mr. Jerome.— To the best of your recollection, you mean?

Q. Will you kindly identify the papers now shown you as the note and affidavit which you then delivered — Exhibits 42 and 43? (Handing papers to witness.) A. Well, I think this is the note, I cannot positively identify it, but I believe it to be the note; and this is the affidavit I know.

Mr. Kellogg.— Give the stenographer the number of the exhibits you are showing the witness. A. (Continuing.) Exhibits 42 and 43.

Q. It appears, Mr. Cruikshank, on the affidavit, being Exhibit 43, that the words "to the knowledge of deponent" are erased. Who erased those? A. I erased them.

Q. Will you state the circumstances under which you erased those words? A. Well, Mr. Cohalan refused to receive it without that being erased, and I erased it and put my initials there. That is all the circumstances that I can be sure of. Whether I took it to my office and brought it back or whether I delivered it — erased it right there, that I don't remember, but what I do know is that I erased it and put my initials on it.

Mr. Guthrie.— That is all.

Mr. Stanchfield.— That is all, Mr. Cruikshank.

Mr. Kellogg.— I would like to ask this witness one question which occurs to me which may shed some light on this matter to the Committee.

By Mr. Kellogg:

Q. Now, I understand from what has been produced here, that you advised that neither Connolly nor his wife should verify the original complaint. Did I understand correctly? A. Yes.

Q. And I have always understood from what you have testified to here that the cause of action was substantially as you have described it after such very careful consideration as you have been able to give the subject after this very important controversy has arisen? A. Yes, sir.

Q. Was there anything in the nature of the cause of action which led you to desire, as a lawyer, that the complaint should not be verified by Connolly, who was the principal and substantially the only owner of the company or business, or by his wife, and if so, what was it?

Mr. Stanchfield.— Well, that you practically ruled out on my objection before when Mr. Guthrie asked that same question.

Assemblyman Levy.— It was excluded in another form.

Mr. Kellogg.— I am trying to find out if I cannot get any more light on the contents of that original matter that called his attention to the fact, and I think it is entirely proper, and I

think it is one of the important considerations here as to what was in that original complaint.

Mr. Stanchfield.— Judge Cohalan was not present; he could not be affected in any way.

Mr. Kellogg.— This witness has attempted to describe what was in the original complaint that had been framed. I think I have a right to call his attention to any fact if it will increase his recollection, or modify it, or clarify it, whatever it is.

Assemblyman Levy.— Is not that asking for the production of evidence as to the operation of the witness' mind?

Mr. Kellogg.— My purpose is, if I can, to get a little more information as to what was in the original complaint; and I think the fact that he insisted upon this course being taken might suggest something to him that might be of benefit to the Committee. If this Committee don't want it I don't care for it, but I thought we wanted a little more light on the subject than they now had.

The Chairman.— On the ground that it was not competent at that time when the question was asked before was why it was ruled out.

Assemblyman Levy.— Will the operation of his mind serve the Committee, that is the question?

Mr. Kellogg.— When it was ruled out the first time you said it might be introduced after the consideration of the original proof here, provided the proof seemed to warrant it, and this certainly is as important a thing in this whole transaction or controversy as there is, and it would seem to be something that you would want to know about.

Assemblyman Levy.— I say, Judge, I would like to ask you, will you tell the Committee, please, if you do not concede that that calls for the operation of the witness' mind.

Judge Kellogg.— I am trying to refresh his recollection.

Assemblyman Levy.— Doesn't it call for the operation of the witness' mind.

Judge Kellogg.— I will state my position here — I have stated it before, and I will state it again — and that is this: That I con-

sider it a very important thing in this case as to what was in the original complaint. This witness has testified from memory that he has tried to refresh.

Assemblyman Levy.—Where is the importance of it?

The Chairman.—You needn't go any further, Judge.

Q. My suggestion was this, Mr. Cruikshank: As I understand it, you have testified here this evening, that you suggested this complaint should not be verified either by Connolly or by his wife; that it should be verified by some other officer of the company qualified to verify it, and if need be, an officer should be elected for that purpose, did I understand you to say? Now, I understood you to say, to detail here as well as you could recollect, after careful thought, the circumstances, what was done in the original complaint. And now I ask you if you will bear in mind for a moment the circumstance that you required or requested somebody other than the Connollys to verify the complaint, and I ask you if that adds anything more to your recollection as to what the original cause of action was? A. It has added to my — it has enabled me to testify more accurately, and I think I considered that with other circumstances in stating the — what the complaint was here, and I can tell you how, if you want to know it.

Q. That has aided you? A. That has aided me. I can tell you how that has operated on my mind, if you want it.

Q. I don't want that, but you have considered that in the answer that you have made? A. I have considered that in the answer to the question.

The Chairman.— Next witness.

Mr. Stanchfield.— Just one moment.

(At this point Mr. Stanchfield consulted with his associate counsel).

Mr. Stanchfield.—There is no cross-examination, Mr. Chairman.

The Chairman.— Next witness, please.

Assemblyman Levy.— That is all, Mr. Cruikshank.

Mr. Guthrie.— I think the record should be completed in regard to some matters. In the first place, I want to offer in

evidence the letter from the Secretary to the Governor to the Grievance Committee, requesting them —

Mr. Stanchfield (interrupting).— Isn't that already in the record, in the proceedings?

Mr. Guthrie.— This is not in the record, as I understand. I want to offer in evidence the letter of the Secretary to the Governor, counsel to the Governor, dated Albany, June 13, 1913.

Mr. Stanchfield.— Let me see it a moment. Isn't it in those printed proceedings?

Mr. Guthrie.— I think not.

(Mr. Guthrie passes paper to Mr. Stanchfield.)

Mr. Stanchfield.— No objection.

Mr. Guthrie.— Mark that in evidence.

The letter was thereupon marked in evidence as Complainant's Exhibit No. 60 of this date. Said exhibit reads as follows:

"STATE OF NEW YORK,
EXECUTIVE CHAMBER,

ALBANY, *June 13th*, 1913.

To the Grievance Committee of the Bar Association, 42 West 44th Street, New York City.

GENTLEMEN.— Governor Sulzer directs me to advise you that he has this day received a letter from Mr. Justice Daniel F. Cohalan, as follows:

'June 12, 1913.

'Hon. WILLIAM SULZER, Capitol, Albany, N. Y.:

SIR.— Charges have recently appeared in the public press of this city emanating from one John A. Connolly, reflecting upon my conduct in my professional relations to him.

If you deem it proper and compatible with the public interest, I ask that you direct the attention of the Legislature about to convene in extraordinary session to these charges for such action as it may deem proper since in view of my judicial position the

Legislature is the only body having jurisdiction to investigate and act in the premises.

Respectfully yours,
(Signed) DANIEL F. COHALAN.'

Under the existing circumstances, Governor Sulzer requests that you file with him, any and all exhibits and facts you have in your possession concerning this matter, together with your report, recommendation and conclusion regarding the same.

Upon the receipt of such information the Governor will take such further action in the matter as he may deem proper under the circumstances.

Very respectfully,
V. TAYLOR,
Counsel to the Governor."

Mr. Guthrie.— I would like also to offer in evidence a letter —

(A dialogue here ensued between Mr. Guthrie and Senator Wagner which was inaudible.)

Mr. Guthrie.— This letter to us, I understand, is not before you officially.

Senator Wagner.— Except the fact is before us.

The Chairman.— There is no objection?

Mr. Stanchfield.— No, I have made no objection to it.

Mr. Guthrie.— I offer in evidence a letter written by the Chairman on Grievances of the Association of the Bar of the City of New York, under date of June 5, 1913.

Mr. Stanchfield.— Let me see that.

Assemblyman Levy.— To whom.

Mr. Guthrie.— To Mr. Justice Cohalan.

(Mr. Guthrie passes letter to Mr. Stanchfield.)

Mr. Stanchfield.— Well, I object to that. I care nothing about the contents of it, but I don't see what that has to do with this inquiry here. The Bar Association has no jurisdiction in this matter. That is the reason we didn't go before them. They did

not have any power to administer oaths, nor compel the attendance of witnesses, nor to punish for perjury, and they couldn't determine anything. That is the reason we are here. I don't think any correspondence between the Bar Association and Mr. Cohalan —

Mr. Guthrie (Interrupting).— I think that your records should show the records of the Bar Association.

Assemblyman Levy.— What is the purpose of the letter, Mr. Guthrie?

Mr. Guthrie.— The letter notifies Judge Cohalan that an investigation will be made by the Association.

Assemblyman Levy.— What bearing has that upon these issues?

Mr. Guthrie.— It has this bearing: Not only in the questions of counsel for the defendant, but in some of the questions of members of the Committee, there have been intimations that the investigation before the Bar Association was not exhaustive and thorough. I did not suppose that we came here to investigate any criticism of the Bar Association, but if you are going to consider the question whether the Bar Association had before it sufficient evidence to justify its findings — which I do not believe is before you at all — but if you are going to consider any such question as that, then you ought to have the whole record before the Bar Association, as part of this record.

The Chairman.— Mr. Guthrie, speaking for myself, not for the other members of the Committee, I don't think the members of the Committee should go in any investigation that occurred before the Bar Association.

Mr. Guthrie.— Neither do I.

Senator Wagner.— I don't think they will.

The Chairman.— I think this proceeding is a proceeding unto itself. We have the power to subpœna witnesses and compel their attendance. Whatever is brought out in this proceeding, whatever charge has been substantiated, whether there has been any charges substantiated, what has been brought out in this proceeding alone should be considered by the Committee. That is my feeling on it.

Mr. Guthrie.— I so understand. And I therefore understand that you will not, either in your own deliberations consider whether there was or was not sufficient evidence before the Bar Association, nor will you permit counsel to —

Mr. Stanchfield.— Well, I object to that. I care nothing about the contents of it, but I don't see what that has to do with this inquiry here. The Bar Association has no jurisdiction in this matter. That is the reason we didn't go before them. They did not have any power to administer oaths, nor compel the attendance of witnesses, nor to punish for perjury, and they couldn't determine anything. That is the reason we are here. I don't think any correspondence between the Bar Association and Mr. Cohalan —

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Assemblyman Levy.— I am afraid that you are a little bit unduly alarmed.

Mr. Guthrie.— I am not unduly alarmed; I am simply anticipating. If that subject is immaterial — as I so understand — I stop here, but if that subject is going to be a matter of debate or of criticism by the Committee, or consideration on its part, then I tender every scrap of evidence that the Bar Association has before it.

Assemblyman Cuvillier.—We cannot go beyond the resolution.

Mr. Guthrie.— I so understand.

Senator Wagner.— Mr. Guthrie, I think the Committee will rely absolutely upon the testimony that has been adduced here upon that record.

Assemblyman Levy.— Yes.

The Chairman.— If that is all tonight we will adjourn until 10 o'clock tomorrow morning.

The Committee thereupon, and at 10 o'clock P. M., adjourned to meet again on Friday, July 11, 1913, at 10 o'clock A. M.

SENATE CHAMBER.

ALBANY, N. Y., *July* 11, 1913.

In the Matter of the Investigation by the Joint Committee on the Judiciary of the Senate and Assembly of the State of New York, into the charges preferred by John A. Connolly against Honorable Daniel F. Cohalan, a Justice of the Supreme Court of the State of New York, in and for the First Judicial District.

The Committee met pursuant to adjournment at 10 A. M.

Present:

The Members of the Committee on the Judiciary of the Senate and Assembly.

Hon. John F. Murtaugh, Chairman.

Appearances:

J. A. Kellogg, Deputy Attorney-General, Counsel for the Committee.

William D. Guthrie, Esq., and Einar Chrystie, Esq., Counsel for the Bar Association of the City of New York.

John B. Stanchfield, Esq., William Travers Jerome, Esq., Isidor J. Kresel, Esq., and John Quinn, Esq., Attorneys for the Respondent Daniel F. Cohalan.

The Chairman.— The Committee is ready to proceed.

Mr. Guthrie.— If the Committee please, we have subpœnaed the bank accounts of the Victor Heating Company in the New York Produce Exchange Bank and the Colonial Bank, being the two banks referred to by the witness Connolly. We offer those in evidence for the purpose of showing that at the date stated by Connolly amounts equal to or more than the amounts testified by him were withdrawn.

Mr. Kresel.— Now, we object to the introduction of the entire account. We have no objection to putting in the entry of the withdrawals of those dates.

The Chairman.— I didn't get your objection.

Mr. Kresel.— We have no objection to putting in evidence the entry in the account showing the withdrawals of those dates, those particular dates.

Mr. Guthrie.— We offer those in evidence. That is all we want. We offer those in evidence.

The Chairman.— Take the concession on the record.

Mr. Kresel.— If Mr. Christie will point out the items that he wants to put in we will have no objection to them.

The Chairman.— Can't counsel agree just what you want?

Mr. Guthrie.— I think we can take that up later.

The Chairman.— All right.

Mr. Guthrie.— We will take that up later.

Mr. Guthrie.— In regard to the Department of Finance of the City of New York, I understand that we have a witness here with the vouchers showing the work done by the Victor Heating Company for the city and the two departments testified to, namely, the Bureau of Public Buildings and Offices, and the Department of Water Supply, Gas and Electricity. It seems to me that there ought to be no dispute as to facts of that kind which are on the public record, and it ought not to be necessary to take up a long time in having all those orders and payments proved. I understand that Mr. Kresel suggests that he has a memorandum of the totals.

Mr. Kresel.— I have compiled the various payments that were made to the Victor Heating Company, and I have the totals here, and Mr. Chrystie, I understand, is willing to take my totals, so we will just read that in. Is that correct, Mr. Christie?

The Chairman.— Go ahead.

Mr. Chrystie.— Between the first of January, 1904, and the first of February, 1906.

Mr. Kresel.— Very well. In the Department —

Mr. Chrystie.— In the Department of Public Offices.

Mr. Kresel.— In the Department of Water Supply, Gas and Electricity.

Mr. Chrystie.— Department of Water Supply, Gas and Electricity, from May 1, 1904.

Mr. Kresel.— No, from December, 1904. In the Department

of Water Supply, Gas and Electricity, from December 19, 1904, to December 30, 1905, there were paid to the Victor Heating Company, $37,028.68.

In the Bureau of Public Buildings and Offices there was paid to the Victor Heating Company between March 31, 1904, and December 30, 1905, $11,468.18.

Mr. Kellogg.— On the first day of the hearing without objection one of the first acts performed before the Committee was the introduction in evidence of the charter and by-laws of the Association of the Bar of the City of New York. I think it is on page 48. I notice in handing this book to the stenographer that I asked him to mark commencing with page 51. I find that I omitted the charter, the act of incorporation, and the two preceding pages of that book, which are the charter, or certificate of incorporation, and private act of the Legislature which should be in evidence in addition to the constitution and by-laws. It was my mistake in not getting all the pages and I ask that pages 49 and 50 of this book be considered in evidence as part of Complainant's Exhibit 3.

The Chairman.— So ordered.

(Same marked " Part of Complainant's Exhibit 3.")

Mr. Guthrie.— Mr. Justice Cohalan, will you please take the stand?

Mr. Stanchfield.— Before that is resorted to, Mr. Cruikshank, if the Committee please, desires to be recalled, and wishes me to put to him some inquiries which were not sufficiently brought forth.

The Chairman.— Is Mr. Cruikshank present?

Mr. Stanchfield.— Yes, he is right here.

Alfred B. Cruikshank recalled.

Examination by Mr. Stanchfield:

Q. Mr. Cruikshank, you desired, I understand, to be recalled to the stand? A. I did.

Q. Now, at this office of the Victor Heating Company of an evening when Mr. Connolly testified that you and he were there

after a dinner, did you, with your pocket knife, or a knife of any description, cut out the leaves of this ledger that has been offered in evidence here, and destroy them? A. I did not.

Assemblyman Goldberg.— What is the answer?

Mr. Stanchfield.— I did not.

The Witness.— I did not.

Q. Did you cut out or tear out or remove any of the check stubs in any of the check books of the Victor Heating Company at that time? A. I did not.

Q. Did you destroy on that evening or on that occasion, at that place, any of the records of the Victor Heating Company? A. I did not.

Q. Now— A. (Interrupting) May I add?

Q. Yes, surely? A. I have heard here for the first time what has been stated on that subject by Mr. Connolly. Of course I didn't hear it at the Bar Association, his evidence being taken privately as far as I was concerned, at any rate. I wish to say — call the attention of the Committee to the absurdity of the statement or charge that that was done. The matters — the alleged cutting out occurred weeks or perhaps months after this matter was entirely closed; and, further than that, this ledger entry which has been exhibited here, and which I have heard described for the first time, would not in any sense be evidence against Mr. Cohalan, of anything that is charged here now or evidence against him of anything; that entry on the ledger, as it has been described here, contained the charge against him of these moneys precisely as was stated in the amended complaint; it changed nothing. Therefore that entry on the ledger was evidence of nothing at all except what everybody admitted that Mr. Cohalan had received these moneys, which he had paid back; and that was precisely what was stated in the amended complaint. To remove that ledger entry and cut out an entry which Mr. Connolly says he had made just a few days before for the purposes of this case, would have been absurd and would have availed nothing to anybody. Secondly, as to these stubs, I have heard it described that they were stubs of checks which were made to the order of Mr. Connolly and which he collected himself. How would that be any evidence against, for or against Mr. Cohalan? Therefore, I say that in addition to my recollection, common sense informs me

it was absolutely impossible that I should have had those things presented to me and asked that they be destroyed lest they should hereafter inculpate Mr. Cohalan even had I been acting in his behalf, which I was not, it would have been absurd for him, his lawyer or anybody to ask that entries be removed which in no way contained any evidence whatever in support of this charge which is made here now that he was — that he was receiving a percentage of contracts.

Q. In other words, your action either in the original destroyed complaint or in the amended complaint, was brought upon the various amounts embodied in that letter of the Victor Heating Company to Mr. Cohalan, under date of January 12, 1909? A. Yes, sir. Those actions were substantially the same, the two complaints were brought to recover those sums which Mr. Cohalan, I understand, confessedly had received.

Q. Was there any allusion or reference made in either of these complaints by you in regard to a 55 per cent. interest in profits had by Mr. Cohalan? A. None whatever. And any such statement as that would have tended to have destroyed — prevented my recovery from Mr. Connolly. The complaint was not brought to recover back money earned by Mr. Cohalan, which had been paid to him, because I could not have recovered on any such charge. Had I made the complaint that Mr. Connolly for the Victor Heating Company had paid Mr. Cohalan 55 per cent. for getting him contracts which he had received, my complaint would not have been good. I never would have brought such an action. It would have been impossible to recover. The complaint was brought on the theory that the moneys had been paid by Mr. Connolly, moneys of this corporation to Mr. Cohalan without consideration of any kind. That was the theory, and that was the theory on which the complaint was brought, and that goes to the facts, as stated to me by Mr. Connolly, and those facts — both this complaint, the original and the amended, were properly verified, and were true, and Mr. Connolly did not commit perjury in swearing to either of them, nor did I advise him to, nor permit him to commit perjury in my office and all the insinuations and statements of the Bar Association or anybody else to the contrary, are not only unfounded, but ridiculous, puerile, in view of the evidence in this case.

Q. Is there any further or other statement that you desire to make, Mr. Cruikshank? A. Further, it has been charged, that I

conspired, in the language, I believe of some gentleman connected with the Bar Association, as originally used, which has since been retracted, that I conspired with Daniel F. Cohalan to have these records, have evidence destroyed. I wish to say as to that in the first place there was no evidence. Every lawyer knows that documents are not evidence when there is no suit or proceeding pending whatever.

In the second place, I never conspired, agreed, with Daniel F. Cohalan to destroy any records, nor, to the best of my knowledge or belief, had Daniel F. Cohalan at that time any knowledge or suspicion that those entries existed in the books of the Victor Heating Company. He had never seen them as far as I know. He had never heard of them, as far as I know. They had never been mentioned between us, as far as I know, and never was there a time in my hearing that Daniel F. Cohalan was ever told, or was it ever suggested to him by me, or anybody else, that there were any entries on the books of the Victor Heating Company referring to him.

He never knew of it, and as to these stubs and that ledger account, I knew nothing of the stubs, and I had a copy of the ledger account, and there was no secret about that, though Mr. Cohalan didn't know it, but I knew it, and therefore Mr. Cohalan could not have conspired with me to destroy records that he never heard of, or never knew of.

I hope that is plain enough. He never conspired, or agreed or had any conversation with me whatever, on the subject of destroying any records.

Mr. Stanchfield.— That is all, Mr. Cruikshank.

By Mr. Guthrie:

Q. Mr. Cruikshank, have you now stated all the additions to your testimony of last night that you desire? A. All that I can, yes, all that I think of now that I desire.

Q. Do you desire to retract or qualify any of the statements that you swore to last night? A. No.

Q. Or any of the facts that you stated last night? A. No, I do not.

Q. You have just stated to Mr. Stanchfield that you had a copy of that ledger account in your office? A. I think I did.

Q. Where is it? A. I don't know. I think Mr. Connolly took

it back. He took hold of my files and took it, what he wanted; took his papers and took them home.

Q. Don't you know that you destroyed that copy of the ledger account at the time you destroyed the original complaint? A. I don't know it, but I may have done so.

Q. You are not prepared to swear that you did not destroy that copy of the ledger account? A. No, I am not. If Mr. Connolly was with me, and it was suggested by me or him that it should be destroyed, I would have destroyed it.

Q. You would have destroyed it. Why would you have destroyed it? A. Because I did not want to keep anything in my office of any character or description which could be used by anybody in the way of publication of this matter.

Q. Have you not just told the Committee that the original account in the ledger was not evidence against Mr. Cohalan? A. It was not evidence against him.

Q. Why would you want to destroy, or would you destroy the copy? A. If it was suggested to me that it might be used some way, I would have destroyed it.

Q. That is the only answer you can make? A. It is sufficient answer.

Mr. Stanchfield.— The answer was that Connolly might blackmail him again. That is the best evidence.

The Witness.— Evidence is one thing, and what might be used for newspaper gossip is another thing. It is not evidence of anything.

Q. Mr. Stanchfield said you had stated it might be used again to blackmail Cohalan.

The Witness.— What was that?

Mr. Stanchfield.— Pardon me. Mr. Stanchfield did not say that Mr. Cruikshank so stated.

The Witness.— I did not so state that.

Mr. Guthrie.— I think you had better let me proceed.

The Witness.— I never said Mr. Cohalan was blackmailed.

Mr. Guthrie.— I don't think Mr. Stanchfield should comment on what the witness is saying, directly or indirectly, for I would then claim he is coaching the witness.

Mr. Stanchfield.— That would not destroy my serenity, if you did.

Mr. Guthrie.— I am sure it wouldn't.

The Witness.— Nobody can coach me.

Mr. Guthrie.— I think it can speak for itself.

The Chairman.—All right, gentlemen. Proceed.

Mr. Stanchfield.— The witness says that nobody can coach him, so that will relieve us from any odium incident to that remark.

Q. You have stated this morning, in answer to Mr. Stanchfield, that everybody admitted that Cohalan had received that money. To whom did you refer when you said that everybody had admitted? A. I meant the parties concerned in the matter, Mr. Connolly, myself, Mr. Cohalan. Mr. Cohalan by his silence, and Mr. Connolly by his assertions.

Q. Now, Mr. Cruikshank, did you desire anything at the office of the Victor Heating Company, the night you went there after dinner? A. I think so, but I am not very — I can't remember.

Q. What do you think you destroyed? A. Beg pardon?

Q. What do you think according to your best recollection you destroyed at that time? A. I think that Mr. Connolly in a joking way said to me "Here is something that might be bad" and produced some memoranum that he had, or perhaps his statement of facts or something that he had, I can't remember what it was; I think that he said that: "Here is something that might make trouble if it was got hold of" and that we destroyed, that evening up in the office or he did, I think so, but I have no distinct recollection what it was, but it was referring to something that the newspapers might get hold of.

Q. Can't I refresh your recollection by suggesting that it was a memorandum book of account? A. It was not a book of account of any kind.

Q. Will you kindly refer to your statement before the Grievance Committee of the Bar Association, page 172, and see whether that refreshes your recollection (Volume handed witness). I call your attention to the question beginning "Didn't the subject of the destruction of this evidence come up during your visit to the office of the Victor Heating Company?" A.

Yes, I said there that I thought it was a statement which he had prepared in some memorandum book.

Q. Yes. Did you state "And that night up in the Victor Heating Company's office I think he showed me that and destroyed it there at the time? A. That is right.

Q. And is that the truth? A. Well, I can't remember sure precisely what it was that he did destroy.

Q. But there was something destroyed that night? A. Yes, sir.

Q. When you were there? A. Yes. It was no account though and it was no entry in a book of account; it was something connected with the facts of the case, some statement of facts of some kind or the other or which had a bearing on his controversy, that is the controversy with Mr. Cohalan and made by himself.

Mr. Guthrie.—That is all.

Mr. Stanchfield.—That is all, Mr. Cruikshank.

Mr. Stanchfield.— Now, Judge Cohalan.

Daniel F. Cohalan a witness called on behalf of the complainant, having been first duly sworn by Senator Blauvelt, Acting Chairman of the Committee, testified as follows:

Direct examination by Mr. Guthrie:

Q. Mr. Justice Cohalan, will you kindly state your residence? A. I live at 25 E. 94th street in the city of New York.

Q. How long have you been admitted to the bar? A. Since 1888.

Q. May I ask you where you were educated? A. In the Public Schools of Middletown, New York, in Wallkill Academy, in Middletown, New York, at Manhattan College in the City of New York.

Q. And from 1888 until you were appointed to the bench in 1911 you practised law in the city of New York, did you not? A. No, I practised law in Middletown from May, 1888, when I was admitted, until, I think the month of September, 1899, when with my parents and their family I removed to the city of New York.

Q. May I ask you in regard to your political activities? A. You may.

Q. Will you kindly state them in your own way? A. I think,

Mr. Guthrie, in the year 1892 or 1893 I took some interest in a campaign in the Bronx in which I then lived with my parents, and which resulted in the election of Louis J. Heintz as Commissioner of Street Improvement, I think it was called. I took no further interest in politics except such interest as any citizen would take in voting at election, until the fall of 1901, when I took some interest in what was called a primary fight in which a friend of mine was interested. In that — as a result of that election I became a member of the General Committee of that district.

Q. What district was that? A. The 32d Assembly District. And I think also in December of 1901, when the committee was organized for the year 1902 I was made Chairman of the General Committee.

Q. That was the Democratic party? A. Undoubtedly. In the year, I think, 1903, when the committees were appointed by the General County Committee of the Democratic party of the county of New York, I was made a member of the Law Committee of the county.

Q. That is, of Tammany Hall? A. Of Tammany Hall, or of the county — the General County Committee of the County of New York. In the year 1906, I think it was, I became a sachem of the Tammany Society, if you call that a political place.

Q. Would you not call it such? A. Not entirely so, no. The Tammany Society is entirely distinguished from the — what is known as Tammany Hall. It was organized, I think, in the year 1789, and had on its roster of membership, as I remember it, seven or eight Presidents of the United States, and is not the same as Tammany Hall in any sense at all. It has close associations with many of the men who are connected with the Democratic party. I think it was the year 1907 when I was made a member of the State Committee of the Democratic party of the State of New York; and in the year 1908 I was made the Grand Sachem of the Tammany Society, if you call that again a political place. I think in the spring of 1907 I was made the Chairman of the Law Committee of the Democratic Committee of the County of New York. Do you want me to tell that I attended various conventions?

Q. I think that would complete the — A. (Interrupting) Yes. I think in the year 1902, in the year 1904, in the year 1906, in the year 1908, in the year 1910, I attended the State conven-

tions of the Democratic party. In the year 1904 I was an alternate delegate to the National Democratic Convention held in St. Louis. In the year 1908 I was a delegate to the Democratic National Convention held in the city of Denver.

Q. And since 1910 you have attended the State conventions of the Democratic party, have you not? A. In the year 1910?

Q. Yes. A. No.

Q. You attended the national convention in the year 1912, did you not? A. 1912, I did, yes; not in any sense in a representative capacity.

Q. But did participate to some extent in the — A. (Interrupting) Well, I suppose in the same way in which you would if you were there; I took an interest in what was going on.

Q. I think you flatter me. A. No, I couldn't flatter you very well, Mr. Guthrie; you deserve a great many compliments.

Q. The influence that you had then, Judge Cohalan. You became a member of the Bar Association when? A. I think in the year 1894; I wouldn't swear to that positively; that is my recollection.

Q. And you knew, did you not, that that was incorporated by act of Legislature for the purpose of maintaining the honor and dignity of the profession of the law and increasing and promoting the due administration of justice? A. I can't say that I knew that Mr. Guthrie, except in a very general way. I think it is only within the last two or three years that my attention has been called to the fact that it was an incorporated society or organization.

Q. But you knew that it was an organization the purpose of which was to maintain the dignity and honor of that profession? A. Oh, I think that was claimed among other things for it.

Q. You are still a member of that association? A. Well, in the sense that I understand that every justice of the Supreme Court of the First Department is an honorary member.

Q. Is it not a fact that when you were appointed a justice, you had been an active member? A. Since 1894.

Q. Since 1894. A. Yes, sir, and paid my dues up to that time.

Q. And according to the custom of the society, when a member is elected a judge, he is placed on the honorary list, and relieved from payment of dues? A. I don't know that I would put it that way. I understood — I never charged myself with finding out just what the situation was. I understood that everyone who was elected, anybody who might be elected justice of the Supreme

Court of the First Department was made an honorary member of the society. As a matter of fact, I received no bill for dues that I can charge my mind with, since I was elected. I think I received one immediately after my appointment as justice of the Supreme Court, but not since my election, if I am right.

Q. Do you think that your election to the bench has in any way vacated your membership in that Association? A. I think it is a different kind of membership entirely. One I paid for, the other I am not paying for.

Q. You knew, did you not, that under the by-laws of the society while you were a member, that there was a Grievance Committee charged with the duty, among other things, of investigating any alleged grievance touching the administration of justice? A. I can't say that I knew that.

Mr. Stanchfield.— Wait a moment. That is objected to. The by-laws and articles of the Association are in evidence and self-speak.

The Chairman.— Sustained.

Mr. Guthrie.— I think, if the Committee please, I am entitled to show by Judge Cohalan what he knew about what the by-laws say.

Mr. Stanchfield.— He will not show, except —

Mr. Guthrie.— And I think from Mr. Cohalan I am entitled to show what he knew, that I urge that this is perfectly proper examination of this witness.

Mr. Stanchfield.— Now I shall —

The Chairman.— How is that material to the issues here?

Mr. Stanchfield.— Mr. Guthrie has called Judge Cohalan a witness, and has thereby vouched in every way for his integrity and credibility, and he will not cross-examine him or seek to reflect upon him, without my protest, and a bitter one, that will be understood on the threshold.

The Chairman.— I sustain your objection. Continue.

Q. You knew, did you not, that under the by-laws a standing committee, known, I think, as the Grievance Committee I beg your pardon. You knew, did you not as a member of the society,

that the Grievance Committee had instituted proceedings against a Judge Droege, did you not?

Mr. Stanchfield.— Pardon me, what was the name?

Mr. Guthrie.— Droege.

Mr. Stanchfield.— I object to that as incompetent, irrelevant, and immaterial.

The Chairman.— I sustain that. I do not see any materiality of it.

Q. Did you know that in January, 1909, the Appellate Division, in sustaining the removal of Judge Droege, had criticised the payment by him of $250 hush money?

Mr. Stanchfield.— One moment. I object to that as impertinent and incompetent.

The Chairman.— I sustain the objection.

Mr. Stanchfield.— If this line of inquiry is to proceed, I shall ask that this Committee administer to Mr. Guthrie a reprimand. He knows perfectly well it is not professional. It is only and simply for newspaper purposes, and nothing else.

Mr. Jerome.— It is not relevant to the charge here.

Mr. Stanchfield.— It is not relevant to any charge that is in issue here.

The Chairman.— The objection has been sustained.

Senator Foley.— Mr. Stanchfield, would not all the facts that were in that controversy, better be brought out? As I remember it was an indictment of a City Magistrate for corruption in office, when he received certain moneys for giving certain favors —

Senator Wagner.— I suggest that we go on with our own inquiry.

Assemblyman Levy.— We are not trying Judge Droege.

Mr. Stanchfield.— I am sort of handicapped in saying anything in that case, for professional reasons, that is the reason I have not said anything about it.

Q. Judge Cohalan, you produced during this hearing, a letter received by you January 12, 1909, from the Victor Heating Com-

pany, which is marked Exhibit 27, and printed at page 123 of the printed record. You recall that, do you not? A. I recall it, yes.

Mr. Stanchfield.— That is a letter stating the indebtedness.

Q. May I ask you what you did when you received that letter? A. How do you mean, what did I do?

Q. Well, did you make any investigation to ascertain whether the dates or amounts were correct? A. I did not.

Q. At that time, did you owe the Victor Heating Company any money? A. Not a cent.

Q. Either for money had and received, or for money loaned? A. In neither case.

Q. Did you at any time during the year 1909 owe the Victor Heating Company any money? A. I did not.

Q. Whether for loans to you or otherwise? A. Under no circumstances at all.

Q. You recall, do you not, publishing the statement which is printed in the record on page 23? A. Yes, sir.

Q. It is stated therein as follows: "At various times during the year 1904, 1905 and 1906 and in varying sums he paid me about $4,000 for my services."

Mr. Jerome.— What page are you reading from, Mr. Guthrie?

Mr. Guthrie.— I said page 23, Mr. Jerome, at the bottom of the page.

Q. Will you kindly state to the Committee the details of those sums and when paid to you? A. I think the dates as given in that letter of January 12th are about correct, with the exception of the sum of $55.55 which I never received.

Q. But other than that you think the statements in the letter and the dates are approximately correct? A. Generally so, yes.

Q. You don't mean the statements in the letter; you mean the figures and the dates?

Mr. Guthrie.—The figures and the dates, yes.

The Witness.—That is what I understand.

Q. And that is what Judge Cohalan understood, didn't you? A. Yes.

Q. Judge Cohalan, have you any entries in your books which will show these payments? A. I haven't, Mr. Guthrie.

Q. When you sued in 1909, did you have any books that would show? A. I did not.

Q. And therefore, then as now, the matter was a matter of recollection on the receipt of these amounts? A. Almost entirely, yes.

Q. How did you receive those amounts? A. You mean in what way were the moneys paid to me?

Q. Yes? A. They were paid to me in cash.

Q. And by whom were they paid? A. John A. Connolly.

Q. Judge Cohalan, will you state in your own way what you did after the commencement of the suit by the Victor Heating Company to recover this $3,940.55? A. As I remember it, the summons and complaint were served upon me about the middle of March, 1909, and about the first of May of that year I had an interview with Mr. Cruikshank of the firm of Atwater & Cruikshank, the attorneys for the plaintiff in the case.

I told Mr. Cruikshank that there was absolutely no foundation for the beginning of an action of that kind against me at all; that I owed these people no money; that advantage was being taken of me because of the fact that—was more or less prominent politically in the public eye and that an effort was being made to get from me money which belonged to me.

That meeting was followed by one with Mr. Cruikshank and Mr. Connolly, arranged by Mr. Cruikshank at Mr. Cruikshank's office. There was a conference lasting some considerable time between the three of us at that place. In that talk I told Mr. Connolly, in Mr. Cruikshank's presence, that I was being blackmailed. That, as Connolly had said to me, when he had called on me at the 1st of March at my office before the action was begun or had been begun, that he realized that a bitter mayoralty fight was coming on that year; that the preliminary lines were then being drawn; that I was the Grand Sachem of the Tammany Society; that I was the Chairman of the Law Committee of the Democratic Committee; that in other words I occupied a prominent position politically in the public eye; that as he had said to me on the first of March I was in position where I could not in justice to the Democratic party have such a claim as he was making against me tried in the courts during the pendency of such a campaign or while such a campaign was on, and that because of that, that as he had said on the first of March he was taking advantage of the situation in which he had found me

politically in order to take from my pocket, to extort from me, to blackmail me out of money which was mine.

Q. Subsequently did you have any interviews with Mr. Connolly? A. With Mr. Connolly, yes. I had another interview with Mr. Connolly on the 27th, I think it was, of May.

Q. Where was that? A. At the office of Mr. Cruikshank.

Q. And he was also present, Mr. Cruikshank? A. Mr. Cruikshank was also present.

Q. What occurred then? A. In the meantime, after thinking over the situation in which I was, and thinking over the way in which this claim was being pressed, I had made an offer to Mr. Cruikshank to pay $1,000 to settle the claim and have general releases given to me by the Victor Heating Company and by Connolly.

That offer had been refused and I had made an offer of $1,500, which had been refused. On May 25th we met by appointment in Mr. Cruikshank's office, and the question of what was to be done with the action came up.

I said that under no circumstances would I pay the amount of money which was claimed upon the complaint which had been served, and there was talk, as there had been previously, between Mr. Cruikshank and me of how the matter might be arranged in such way that I would pay.

I had suggested that the action should be discontinued entirely and withdrawn and the matter taken up again de novo.

It was there suggested that an amended complaint should be served in which it would be alleged on the part of the Victor Heating Company, that the money paid to me had been paid as a loan, had been loaned and advanced to me. I said that that statement would be no more true than the statement which had been already sworn to; that I did not owe the money; that the money was mine; that there was no reason why I should pay it over at all.

Connolly said that in the eyes of the company, as the money had not been paid to me with the authority of the company, that it could be said to have been given and advanced to me by the company.

Q. And that was suggested, you say, first of all to you by Mr. Connolly? A. Yes, I say so.

Q. Then you and Mr. Cruikshank acquiesced in that?

Mr. Stanchfield.— Let him answer his question.

The Witness.— No. Then they went ahead and it was decided that upon the withdrawal of the original complaint and upon the service of such a complaint as that that I would pay the money of which I claimed I was being blackmailed and robbed. Later in the day — no, further at that same meeting, there was some question of whether or not this was going to end the matter between us or whether the papers were going to get hold of the matter and get an opportunity of distorting and twisting the situation into some such situation as they have made here.

Connolly said that there would be nothing more of the matter at all, there would be no distorting of the matter, there would be nothing further done about it.

Later in the day Mr. Cruikshank came to my office and met Mr. Leary and myself, served the amended complaint upon Mr. Leary, refused to take less than the sum of $3,940.55 in spite of my protests, which were continued from the session earlier in the day and continued from every meeting at which I had met either Mr. Connolly or Mr. Cruikshank.

The money was paid, and then, as Mr. Leary has testified, he wanted to know what was to prevent this fellow from blackmailing me again; and Mr. Cruikshank said that of course we understood that the suit was in the hands of reputable people and that there would be nothing further of it.

He asked for the copy of the summons and complaint which had been served. It was returned to him and he tore it up in the presence of Mr. Leary and myself.

Q. About what was the original complaint served, Judge Cohalan? A. About the middle of March, I should say, Mr. Guthrie.

Q. What is your best recollection of the nature — A. (Interrupting) My best recollection of the complaint is —

Q. (Continuing) Of the nature of the claim made in that complaint? A. That the first recital was that I had had and received this sum of money from the Victor Heating Company; that the money had been paid to me without the authority of the company, and that there was some kind of contract that I had undertaken to perform had not been carried out.

Q. Was there anything on the face of the complaint that would show that the claim was illegal, or that you had been guilty of improper conduct? A. In no sense.

Q. So that, so far as the face of the complaint was concerned, there was no object in destroying it? A. Absolutely none.

Q. It is in evidence that on the 19th of May, 1909 — A. (Interrupting) Except all the time that it was false.

Q. It was false? A. Yes.

Q. Well, the amended complaint was equally false? A. In another way, yes, from my point of view.

Q. Yes. And the man who swore to it perjured himself? A. I think he did.

Q. Both to the original and the amended complaint? A. In my eyes, Mr. Guthrie, neither one of those complaints set forth a true and fair statement of the facts.

Q. And in your eyes, both of those complaints were perjurous? A. I would say that neither one of them was true.

Q. It appears in evidence that on the 19th of May —

Assemblyman Cuvillier.—(Interrupting) What page?

Mr. Guthrie.— Page 146.

Q. (Continuing) 1909, page 146 of the printed record, that Mr. Cruikshank wrote you a letter. Do you recall such a letter? It was produced yesterday from your files? A. I don't by that date, but I would if I saw it.

(Mr. Jerome passes letter to witness.)

Q. You are referring to page 147, Judge Cohalan? A. Yes, I see it.

Mr. Jerome.— There is one at 146, and another one finished on 147.

Mr. Guthrie.— Referring to the letter of May 19th the one on page 147, Mr. Jerome, if your printed copy is the same as mine.

Mr. Jerome.— Yes.

Q. Now, Judge Cohalan, this is stated in that letter (reading) "If the settlement is arranged, as I hope it will be, of course the details can be made entirely satisfactory to you, in the manner suggested by you, or otherwise; beside which I think I can make some further suggestions, with the same object in view." May I ask you what were the suggestions which you made in regard to the manner of the settlement? A. Yes, I suggested that the action should be withdrawn entirely, that I should get a general release from Connolly, and that I should get a general release from the Victor Heating Company.

Q. And that is what you understood Mr. Cruikshank to refer to? A. Yes.

Q. Did he subsequently make any other suggestions to you? A. No, except the one that was made on the — at the meeting on the 27th, as I recall it, at which the suggestion was made that a different form of complaint should be served upon me.

Q. Now, Judge Cohalan, referring to the statement which is printed on page 23, being the statement which you recently furnished to the press. I call your attention to this statement: "Upon Connolly's withdrawal of the sworn allegations he had caused to be made against me, and upon his own statement repudiating those allegations, I gave back to him the money he had paid to me, or what he said was the amount of it." Now, what withdrawal of sworn allegations was there? A. Why, the withdrawal of the original complaint.

Q. And that is what you intended to refer to in that statement? A. Undoubtedly.

Q. And by the language upon his own statement, repudiated those allegations. What did you refer to? A. Why, the service of the amended complaint.

Q. As matter of fact, all the withdrawal or repudiation that you got was the service of this false amended complaint.

Mr. Stanchfield.— Now, I object to that. That suggests a conclusion, and it is really cross-examination, without any foundation laid for it.

The Chairman.— What is the question?

(Question repeated as follows: "As a matter of fact all the withdrawal or repudiation that you got was the service of this false amended complaint.")

The Chairman.— That is really in line of a conclusion, what did he get, is that what you want?

Mr. Guthrie.— I think I am justified in asking the question, in view of the statement that was published an issue which is before you in regard to that statement.

The Chairman.— You are making this out, however, in the line of cross-examination.

Mr. Guthrie.— I am doing it in connection with the last charge that we made, that the statement was misleading.

Mr. Jerome.— The question should be, were there any more allegations?

The Chairman.— I think I will sustain that objection. I think you can ask him the question of what he got.

Mr. Guthrie.— I think that I am entitled to press that question. I understand the objection is sustained?

The Chairman.— Yes.

Q. Are we to understand, Mr. Justice Cohalan, from your testimony, that you entered into this arrangement, and paid this sum of $3,940.55 solely because of your prominence in politics? A. Not solely because of my prominence, Mr. Guthrie, but also because —

Q. Solely because you —

Mr. Stanchfield.— Let him answer, won't you, he has a right to finish.

A. (Continuing.) Also because of the position that this man had taken. This man by this time had become one of the leading members of the Fusion Party, so to speak, the reform committtee, which had been organized. He was one of the members of the Committee of 19. And as he had told me on the occasion when he called at my office on the 1st of March, 1909, he was a desperate man, was in the worst kind of financial straits, and was prepared to swear to any statement that might be necessary in order to recover this money.

Q. And you felt then, that that would be of great injury to your party? A. I did, and I do.

Q. And you were willing, therefore, to pay this blackmail, in order to hush up this charge? A. I was. And I think I made the greatest mistake I ever made in my life; but I think at the same time, that I did what was fair and reasonable, taking into consideration the political situation at the time.

Q. You realized that it was a stain upon your honor as a man? A. No, —

Mr. Stanchfield.— Wait until he finishes his question.

Q. (Continuing) — as a man, and as a professional man, to make such payment, did you not?

Mr. Stanchfield.— I object to that question.

The Chairman.— Objection sustained. I think, Mr. Guthrie, the Committee can draw the conclusions, if you will get the facts out.

Mr. Guthrie.— I am going to see whether I can lay bare the operation of the witness' mind. I want to be as fair as I can. I have, I believe, a duty to perform; and I think that I am entitled to show whether or not Mr. Justice Cohalan morally realized that in making that payment of hush money, he was putting a stain upon himself and upon his profession.

The Chairman.— I think, Mr. Guthrie you can bring out the facts, and ask the questions that will bring them out, and the Committee can draw the conclusions.

Mr. Guthrie.— That is one of the issues before you.

The Chairman.— We will take care of the issues, as we —

Assemblyman Cuvillier.— I want to ask you one question, Mr. Guthrie, and that is whether you were counsel for any of the Pulitzers?

Mr. Guthrie.— No, sir.

Assemblyman Cuvillier.— Or your firm?

Mr. Guthrie.— No, sir

The Chairman.— The Chairman will insist upon the rule that all questions asked of the counsel shall be asked through the Chair, you are taking up our time, and we are losing time.

Mr. Stanchfield.— The Chairman ought to have in mind, and I want the Committee to have in mind thoroughly lodged there, that Mr. Guthrie, in conducting this examination, is conducting it as the representative of the Bar Association of New York, of which I am a member, as well as he is, and I have just as high and lofty notions of the purposes it serves as Mr. Guthrie entertains, and as the representative of that Association, he is calling this respondent to the witness chair, as he knows, in absolute derogation and violation of the constitutional rights of Judge Cohalan; and that question we have never raised, and most openly waived, and court any legitimate examination. But I want the Chairman of the Committee to understand, that except over our protest and most strenuous objection, he ought not to be permitted, for news-

paper purposes, to malign, to traduce, and to abuse a witness who he is examining by courtesy, and not by right.

The Chairman.— Well, I think we can take care of that proposition.

Mr. Guthrie.— I desire to state to the Committee that the only constitutional privilege that Mr. Stanchfield can possibly be referring to, is the constitutional privilege against self-incrimination, and that is the only privilege that he says he has waived.

The Chairman.— Proceed.

Mr. Guthrie.— The objection was sustained to the question?

The Chairman.— Yes, sir.

Q. Judge Cohalan, in this statement that you published, there is a disclosure in regard to Mr. Connolly's marital troubles.

Mr. Stanchfield.— I object to that upon the ground it is not within the charges, leaving alone it is absolutely frivolous. I would like to know upon what theory a lawyer can be attacked by a client who openly admits that he is a forger, a thief and a perjurer, and is not permitted to defend himself in the newspapers or elsewhere.

Mr. Guthrie.— The Committee will recall that the report submitted to you by the Governor states, that Judge Cohalan made disclosure of personal matters, without any release from his client, and I want to know whether he had any release when he made that statement.

Mr. Stanchfield.— I object to that as improper. It is not direct examination. Upon what theory, if the Chairman please, is Mr. Guthrie permitted to call a witness to the chair, and attempt to discredit him or impeach him, or ask him questions that affect his credibility. I would like to have Mr. Guthrie, lawyer that he is, produce the law upon that subject. If we are going into the question of ethics of the Bar Association, and the Bar Association has been created and grown to the size it is, and to the exalted position that it holds, and has raised the profession, from that standpoint, I will like to ask Mr. Guthrie why are you asking such a question as this?

Mr. Guthrie.— I am here to get at the whole truth.

Mr. Stanchfield.—You are going to get it with the legal rules of evidence, and you won't get it any other way.

Mr. Guthrie.— I going to get the whole truth, with or without technicalities.

Mr. Stanchfield.— No you won't, you will get it in accordance with the rules of law.

Senator Wagner.—As a member of the Committee. I am somewhat astonished at the feeling that Mr. Guthrie has shown in this proceeding, and I am as much interested as anyone in getting at the truth, but I want it done without any feeling, and I shall insist upon the Chair, as a member of the Committee, protecting the rights of everyone here.

The Chairman.—What is the question?

(Question repeated as follows: "Judge Cohalan, in this statement that you published, there is a disclosure in regard to Mr. Connolly's marital troubles.")

Mr. Stanchfield.—That is not in the charges, and is not in the bill of particulars; it is impeaching in a way, the credibility of the witness that he calls himself.

Mr. Guthrie.— Let us pass to something else, in view of that objection.

Q. Will you please state your recollection in regard to the giving of the $4,000 note to you, Judge Cohalan? A. I will.

Q. You recall the date? A. On which it was given?

Q. Yes? A. Yes, it was given on the 5th of April, 1911.

Q. At that time you knew that Mr. Connolly was absolutely worthless? A. Utterly so; as much so as he is to-day.

Q. That is, he was substantially then what he is to-day? A. Except for the contract which he has now.

Q. Aside from his contract, which you refer to, I suppose with the World? A. I knew him by his declaration to me, Mr. Guthrie, to be utterly penniless, and absolutely without any financial strength of any kind.

Q. Did you know him to be unreliable? A. Certainly.

Q. And you had known that for some time, had you not? A. I felt that I had reason to know it, yes.

Q. Now, is it not the fact that you asked him for that note? A. It is not.

Q. Did he offer the note to you? A. He did.

Q. For what? A. He offered the note as an acknowledgment of the fact that he had blackmailed me and wronged me, and he offered me the note when I had asked from him, and he had refused to give the written acknowledgment of the fact that he had so done.

Q. Then you then asked him to give a written acknowledgment of the fact that he had blackmailed you? A. I asked him to give me an acknowledgment of the fact that he had wronged me, and he said he could not afford to do anything of that kind, as he would be writing himself down a blackmailer.

Q. And he then suggested, as a substitute for that, that he should give you a note for $4,000? A. He did.

Q. Then the purpose of the note was to furnish evidence of his confession that he had wronged you? A. The purpose of the note was to make an acknowledgment upon his part that he had wronged me, and that in going around and declaring that I had wronged him, that is right.

Q. And you thought that a worthless note from such a man would be evidence in your favor that the man had lied about you?

Mr. Stanchfield.— I object to that question, in that form, as argument, your honor.

The Chairman.— It is only as a matter of form, Mr. Stanchfield, and I think we can as well take it that way as another. Objection overruled.

A. I did not, as I said in the statement, Mr. Guthrie, that you are holding in your hand, if I mistake not; I did not think that the note alone would be anything of the kind, and therefore I suggested that there should be with it a declaration which would make it more binding upon him.

Q. It is a fact, is it not, that you refused to accept the note, unless it were accompanied by some declaration that would show his former statements about you were false? A. Practically so, yes.

Q. And thereupon this affidavit, estoppel affidavit, as it has been characterized, was given you? A. Thereupon, yes.

Q. What is there in that affidavit to show the former statements of Mr. Connolly were false? A. Why, I took it, Mr. Guthrie, that

even on Connolly, the giving of a note of $4,000, accompanied by an affidavit that there was no defense to it, would put it beyond his power, or the power of anybody else to question the fact that there was an acknowledgment on his part that he had wronged me.

Mr. Guthrie.— That is all.

The Witness (Interrupting).— You haven't asked me, Mr. Guthrie, about the question of whether or not I expected office at the time —

Mr. Stanchfield.— Wait a moment.

Q. I would be very glad — I shall be very glad to develop that subject and one or two others, Mr. Cohalan. May I ask if you have produced your — the records that you kept in 1904 and 1905 and 1906 of the rendition of professional services to your clients?

Mr. Stanchfield.— I object to that as incompetent and improper.

Mr. Guthrie.— What is the form of the objection.

Mr. Stanchfield.— Entirely and purely a collateral matter.

Q. Well, Mr. Cohalan, you did keep a record of your professional services while you were at the Bar, did you not? A. There was a register kept in the office, Mr. Guthrie, of the cases in which I appeared.

Q. And in matters where you acted other than cases, you kept a record, didn't you? A. I did not, no.

Q. There has been reference in this proceeding to a suit of a Mr. O'Hanlon against the Victor Heating Company. You remember that, do you not? A. I do in a general way, yes.

Mr. Stanchfield.— That was a litigation. He said he kept records where there was litigated matters.

Mr. Guthrie.— I will now take up the litigated matters.

Q. Have you looked in your register recently to see if you had charge of any other litigated matters for the Victor Heating Company in 1904 or 1905 or 1906 than this suit brought by O'Hanlon? A. I have not, Mr. Guthrie, strange as it would seem. I can say with perfect truth that I do not think I have looked into the register a dozen times in the time it was kept.

Q. Well, would you mind looking now, Judge Cohalan? A. I would not at all.

Q. (Continuing) To see if there were any other suits or legal proceedings? A. I have been informed that the only other litigated matter in which I appeared for Mr. Connolly or his company was in the claim of Lord & Burnham against the Victor Heating Company.

Q. When was that? A. About that time, in 1904.

Q. How much was that claim? A. Something about $200, $190, something like that.

Q. Will you kindly look at the paper now shown you and produced by your counsel, and state whether that is a copy of the complaint in the O'Hanlon suit as to which you have been examined? (Counsel passes paper to witness) A. (After examining) I think it is.

Q. And it was in connection with that suit that you rendered the bill for $250? A. It was.

Q. And were paid as appears in this evidence? A. Yes.

Mr. Guthrie.— I offer this complaint in evidence.

Mr. Stanchfield.— Let me see it a moment.

(Mr. Guthrie hands complaint to Mr. Stanchfield.)

Mr. Kresel.— Do you offer it in evidence?

Mr. Guthrie.— Yes.

Mr. Stanchfield.— I don't know what the purpose of that is but we object to it upon the ground that in no way and from no angle could the respondent be bound by a summons and complaint in which he was the professional representative of the defendant in the action.

Mr. Guthrie.— I will state, if you will permit me, why it is material. It appears in the evidence before you that O'Hanlon brought a suit for the dissolution of that company and that in that suit services were rendered by the respondent. It has also been testified that O'Hanlon knew about this arrangement to give some one stock.

In this complaint O'Hanlon refers to the fact that Mr. Connolly and Mr. Southard propose to give 50 per cent. of the stock of the Victor Heating Company, as one of the reasons why the action should be maintained.

I think that that is most important evidence upon the issues before you. Among the questions are whether there is any

corroboration whatever of the story told by Mr. Connolly, and the fact that this witness appears for the Victor Heating Company in a suit charging that this man proposes to give stock for political influence is material.

Mr. Stanchfield.— That is another illustration —

Mr. Guthrie.— Let me read it for a moment.

Mr. Stanchfield.— I object.

The Chairman.— It cannot be read until offered in evidence.

Mr. Stanchfield.— He is already violating the rule by stating its contents. There is not a lawyer upon this Committee that does not know from a professional point of view that counsel have no right to state the nature of the evidence and that is precisely what counsel has done and he is violating another rule, not only of procedure and practice but of ethics. It is not conceivable that we could be bound by the allegations in the complaint.

The Chairman.— How would this be in any way binding upon the respondent? There is no connection between the 50 per cent. as is shown on the record up to this time and the respondent.

Mr. Guthrie.— There is shown on the record for what it is worth that O'Hanlon wrote such a letter in regard to 55 per cent.

The Chairman.— He denies it.

Mr. Guthrie.— I know he denies it, but it is prima facie before you. The question is whether there is any evidence tending to corroborate.

The Chairman.— That is what I am getting at, Mr. Guthrie. Is there anything in that that corroborates that?

Mr. Guthrie.—The witness Connolly has testified that the O'Hanlon letter was handed to this witness, by him destroyed or crumpled up and I think it is material to show the nature of the suit in which he acted as counsel for the Victor Heating Company.

The Chairman.— But this complaint refers to a 50 per cent. proposition. The letter refers to 55 per cent.

Mr. Kresel.— The 50 per cent. proposition for stock and the 55 per cent. profit proposition are entirely different.

Mr. Guthrie.— Does it not tend to corroborate the testimony of Connolly that there was a discussion between him and Judge Cohalan in regard to 50 per cent. of the stock?

Senator Blauvelt.—The only way in which that could be used would be to impeach the witness.

The Chairman.— I am going to sustain that objection.

Mr. Guthrie.—Your Committee will of course realize that the nature of the action will have a very material bearing upon the probability of the destruction of evidence, as to the dealings between the company and Cohalan.

Q. Without in any way attempting to put language into your mouth, Judge Cohalan, which I wouldn't do —

Mr. Stanchfield.—Which you will not be permitted to do.

Q. It is stated on page 22 of your statement as follows:

" It is false that the money he paid me was paid exclusively in connection with such work as I did to help him obtain contracts."

Is it or is not the fact that you did do work helping him to obtain contracts for which you say you were paid? A. It is.

Assemblyman Levy.— What page is that on, Mr. Guthrie?

Mr. Guthrie.— Page 22, at the bottom of the page.

Assemblyman Levy.—Thank you.

The Witness.— Didn't you hear me answer? I said it is.

Q. Have you any record in your books of the rendition of such services? A. I have already told you that I did not have.

Q. Can you recall when those services were rendered in connection with contracts? A. In a general way, yes.

Q. Will you kindly state to the Committee? A. Yes. In the month of January, 1904, I called several times upon the President of the Borough of Manhattan and called at his suggestion upon the head of the Bureau of Public Buildings; placed before them the fact that the Victor Heating Company was an applicant for certain work which was to be given out in that department; told them that the Victor Heating Company was, for the kind of work which it was seeking, a reliable and competent concern, that the man who would superintend the work was, so far as I had been able to ascertain, a competent man to superintend such work;

and asked that an opportunity should be given to the company to get a share of the work which was to be done, or given out, on the same terms on which it would be done by any other reliable concern and that such work of course would be done in the highest workmanlike style.

Later on at the suggestion of Connolly again I called in the same way and made the same reference to the head of the department of water supply, gas and electricity and as a consequence of those calls, largely coming after those calls, orders were given to the Victor Heating Company for some such work.

The work was done by the company and spread over the years 1904 and 1905 or a large part of both of those years.

Q. And it was for those services that these payments were made to you by the Victor Heating Company? A. No, it was not for those alone, Mr. Guthrie.

Q. Well, what other services were there? A. That was for the work that was done in connection with those contracts; it was for such advice that I gave to Connolly during that time; it was in return for all services rendered by me to him that I charged and he paid to me the sums of money which he subsequently blackmailed me into returning.

Q. Well, you say you charged him. In what way did you charge him? A. In the general way in which I think the majority of lawyers charged.

Q. Simply in conversation. Did you render any bills? A. I never rendered any bills; I never was asked for a bill except in the specific case of the Victor Heating Company, in which he repeatedly asked for a bill, in which it was finally sent.

Q. That in each of these payments made to you, which have been proved in this case and admitted to have been received, were in connection with the rendition of such services as you have referred to? A. And of such other things as I have told you in such matters as he consulted me on.

Q. Well, what other matters of the Victor Heating Company did he consult you about? A. Well, the Victor Heating Company and he, Mr. Guthrie, in my eyes, were one at the time. Connolly in August or September had become the Victor Heating Company to all intents and purposes; he consulted me about the question of a claim that he had against the city of New York for services rendered as a commissioner of appraisal, a commission on which he had asked me to see if it were possible to have him appointed. In January, 1904, he came to me and told me as usual, the regular

story about how hard up he was financially and about how badly he needed some money and wanted to know whether or not I would not as a great favor to him, speak to Mr. Justice Keogh, who was a very old, dear, personal friend of mine, and ask whether or not his name might be considered in connection with the vacancy which had occurred upon a commission through the death of Mr. Justice Barnard. I saw Justice Keogh and he said he would take the matter under advisement, and sometime afterwards Connolly was appointed on the vacancy. The commission did its work, and along in January, 1906, as I remember it, Connolly was talking of the question of collecting from the city of New York the fees for services rendered as commissioner in that case; he and his fellow commissioners did not succeed in amicably settling the matter with the corporation counsel and he sought some advice from me as to what should be done and how should he carry on the negotiations. And that was one of the matters I had in mind. There was a case, as I remember it, some matter that some other contractor on Staten Island had got some case that he claimed should have gone to the Victor Heating Company, and he consulted me as to what should be done with relation to that.

Mr. Jerome.— About Grout, the comptroller's office, and the fees?

The Witness.— Oh, yes.

Mr. Guthrie.— What did you say, Mr. Jerome?

Mr. Jerome.— I said about his appearing before the Comptroller in regard to him.

The Witness.— Yes, this was being held up. During the progress of this work he got in difficulties with the Comptroller's office; there was a question of whether or not the law had been strictly complied with, with relation to the way in which the orders had been given; whether the department of water, gas and supply had not exceeded — whether the Commissioner had not exceeded his authority in issuing orders that in the aggregate amounted to more than the sum of $1,000 and the bills, which amounted to $7 or $8,000 were tied up in the Finance Department, and I went with him on one occasion and without him on other occasions, to see Comptroller Grout and to see the chief auditor, Mr. McKinney, to see if the matter could not be adjusted in such a way as to give to the Victor Heating Company — which according to

my contention the Victor Heating Company was entirely blameless, the amount that was due to it, that they had performed their contracts in a general way in connection with the work and were entitled to the money, and whether or not it should not receive the money which was due to it.

Q. Now, Judge Cohalan, in regard to the date of your appointment to the Bench. I believe that that is the matter that you wanted to inquire about. A. The charges made there as I understood it.

Q. The charges made at the time that note was given — A. (Interrupting) Yes.

Q. (Continuing) You had the expectancy of being appointed to the Bench. Now, what have you got to say in regard to that? A. I have got to say that there is absolutely no foundation for such an assertion, Mr. Guthrie.

Q. You knew, did you not, that your name had been published in the press? A. Well, if I took into account every time my name had been published in the press —

Q. (Interrupting) Did you not —

Mr. Kresel.— Let him finish.

The Witness.— If I took that into account, I would have been appointed to a great many offices on a great many occasions in my life.

Q. I am informed — you will correct me if I am not right — A. (Interrupting) I will.

Q. (Continuing) That you were in Albany on the 31st of March, 1911? A. I surely was.

Q. Do you remember any interview with Governor Dix that evening? A. I do.

Q. Do you remember that the subject of a successor to Mr. Justice O'Gorman was then discussed in your presence? A. It was not, Mr. Guthrie.

Mr. Guthrie.— That is all.

Cross-examination by Mr. Stanchfield:

Q. Judge Cohalan, when you had your first interview or interviews with Mr. Connolly in regard to assisting him in obtaining work from the city, did you ever, as a condition precedent to representing him, ask or demand for 50 per cent. of the stock of the Victor Heating Company? A. I did not, Mr. Stanchfield.

Q. Did Mr. Connolly ever offer you, and did you accept a proposition tendering you 55 per cent. of the net profits of the Victor Heating Company for such work as you might obtain for it from the city of New York? A I did not. I told Mr. Connolly on occasion after occasion that what I would do would be to charge him what would be the fair and reasonable value of such services as I might render to him or to his company.

Q. Did you ever receive from the Victor Heating Company a letter in any shape or form tendering or offering you 55 per cent. of the net profits of the result of such work as you might — A. (Interrupting) I did not.

Q. Let me get through. (Continuing) As you might obtain from him from the city of New York? We have got worlds of time if nothing more. From the city of New York? A. Decidedly not.

Q. Did Mr. Connolly ever, upon a Broadway car, subsequent to the convention, the political convention of 1904, or elsewhere, hand you what purported to be a copy of such a letter, tendering you 55 per cent. of the profits of that kind of work? A. Most decidedly not.

Q. And did you take from him such a letter and crumple it up in your hand and remark to him that if found out that would make a case for the grand jury? A. That thing is pure imagination, Mr. Stanchfield. Most decidedly not.

Q. Now, it appears in the evidence here that these various payments were made to you in cash, and there are in evidence a large number of deposit slips showing considerable and large amounts of deposits by you in cash in your bank. Did you have clients who paid you in cash? A. A number of them, yes.

Q. And it was this money that you received in cash as appears from some of these slips, from Connolly, were deposited by you in the ordinary course of business, in your bank? A. They were.

Q. And did you receive from clients in cash moneys to invest for them in securities of one kind or another? A. Well, sometimes.

Q. Did you ever tell Mr. Connolly at any time or at any place that it was necessary for you to smooth the way to obtain this work, to pay 10 per cent. or any percentage of the face of the bills to any employee or representative of any of the city departments? A. I did not.

Q. Did you ever pay or have any conversation in regard to the

paying of any graft or percentage of any sort, amount or description to one Alfred J. Johnson? A. I did not.

Q. Did you ever have any conversation of any sort or description with Mr. Connolly upon the subject of making any payment of that kind to Alfred J. Johnson or anyone else — A. (Interrupting) I did not.

Q. In the employ of the city of New York? A. I did not.

Q. In any of the conversations that you had with Mr. Connolly in regard to obtaining work for the Victor Heating Company, did you ever say to him that in consideration of any payment by him to you of any moneys, either professionally or otherwise, that you would obtain such work by the use of your political influence with those departments? A. I did not.

Q. Did you ever in the month of May, 1909, or at any other time, agree with John A. Connolly and Alfred B. Cruikshank, or either of them, that you would engage with them in a conspiracy, or make an agreement with them to destroy evidence of any sort or description? A. Most decidedly not.

Q. When this case had been settled and you had paid to Mr. Cruikshank this amount of thirty-nine hundred and odd dollars, was there any reason that would occur to you, ethically, morally, professionally, or otherwise, that would render it improper to destroy the papers connected with it? A. There was not.

Q. Did you ever enter into any agreement with Connolly and Cruikshank, either or both of them, looking to the preparation and verification of any false complaints or affidavits connected with complaints or pleadings in this case? A. I did not.

Q. Did you ever enter into any agreement with Connolly or Cruikshank or either of them looking to the destruction of the accounts or books of account, records and writing belonging to the corporation of the Victor Heating Company? A. Such matter was never suggested or mentioned.

Q. At the time when this $4,000 note was discussed between you and Mr. Connolly, or handed by Mr. Cruikshank to you under the circumstances that you have detailed, was there ever any promise, talk or conversation by and between either you and Connolly or you and Cruikshank looking to the securing by you, as a consideration of the giving of that note, of a political position or any other kind of a position for John A. Connolly? A. There was not, Mr. Stanchfield.

Q. Did you, about the time of the taking of that note make any agreement with the said Connolly or with Mr. Cruikshank, his representative, to have Mr. Connolly make a false affidavit that there was no defense to such note? A. I did not.

Q. You took that note you have stated, to really reimburse you in a way for the moneys that had been taken improperly from you and to right what you regarded as a wrong that had been perpetrated upon you by Connolly? A. I did not. I never expected that that note would be paid; I never supposed the note had any value.

Mr. Jerome.—Will he read the question again?

The Witness.—You have got two things in your question, I think, one of which is so, and the other of which is not so.

Mr. Stanchfield.—We will have to get that straightened out.

The Witness.— Repeat the question.

Mr. Stanchfield.— Repeat that question, Mr. Stenographer.

(The stenographer thereupon read the question referred to as follows):

"Q. You took that note you have stated, to really reimburse you in a way for the moneys that had been taken improperly from you, and to right what you regarded as a wrong that had been perpetrated upon you by Connolly?"

The Witness.— I took the note, as I have explained, as an acknowledgment on the part of Connolly that he had wronged me, the note and the affidavit. I knew Connolly at the time was penniless; I knew the note had no financial value; the note was drawn for four months; it was not payable at any place at all and it never was presented and I never had any expectation of getting any money upon it.

Q. And you did not agree with him or with Cruikshank as his representative, to take a false affidavit that there was no offset to it? A. I certainly did not.

Q. In the statement published by you and signed by you in the newspaper with reference to which Mr. Guthrie has examined you, you did state, did you not, so far as you were able at the time of its preparation, the truth and nothing but the truth in regard to your relations with Mr. Connolly? A. As fully as I

understood it and with no intention in any sense of misl ding anybody.

Mr. Stanchfield.— I think that is all.

Mr. Guthrie.— That is all.

Mr. Quinn.— Judge Cohalan, just one word, if you will permit me, Judge Stanchfield.

By Mr. Quinn:

Q. Is any of Mr. Guthrie's five charges at page 45 of the printed record, that your statement was false and misleading, true? Is any one of Mr. Guthrie's five charges true? A. Not in any sense as I understand it. I made that statement fully believing in it and intending to mislead nobody.

Q. Do you think Mr. Guthrie ought to apologize to you now? A. That is a matter that Mr. Guthrie and I will have out outside.

Senator Wagner.— Judge Cohalan, may I ask you one question?

The Witness.— Yes.

By Senator Wagner:

Q. When you ran for the office of Justice of the Supreme Court in 1911 was it? A. In November, 1911.

Q. Was Connolly pretending to support you for the office? A. Well, I so understood.

Q. And that was about the same time that he was having the conference with McNulty and Mr. Reilly, was it? A. So he testified in the last day or two here.

The Chairman.— Next witness. Are there any more witnesses to be presented? Have you gentlemen agreed upon your figures?

Mr. Guthrie.— We are trying.

Mr. Kresel.— We are trying to do it, Mr. Chairman.

Mr. Guthrie.— I won't offer any. That is all.

Mr. Stanchfield.— The respondent stands on the record, if the Committee please.

The Chairman.— Any other witnesses who wish to be heard in this matter before the Committee?

(No response.)

The Chairman.— Mr. Guthrie, did you wish to say something?

Mr. Guthrie.— No.

The Chairman.— Are there any questions that the Committee wants to ask, or anything like that.

(No response.)

The Chairman.— I think the hearing is closed for the purpose of taking evidence then. Just a minute. I will not close the hearing for the time being. The Committee will go into executive session for —

Mr. Guthrie.— Before you go into executive session, I would like to state that we want to be heard briefly upon the case as submitted.

Senator Wagner.— This is not final.

Mr. Guthrie.— Just for a few minutes. We want to determine —

Senator Wagner.— One of the members, I understand, wants to submit a matter to the Committee.

Mr. Jerome.— There is a matter that might well be taken up now, before you go into executive session, because you could submit that to your Committee at the same time.

Counsel for the respondent have conferred, and we feel it our duty to present to you that it is a footless task, one taking up your time and our time, to do anything in the way of a summing up in this case. We are not addressing a body of jurors. We are addressing a body of trained lawyers, everyone of which has had experience practically in the trial of causes, the weighing of evidence and the marshalling of it.

No subtlety of analysis can make anybody believe that John A. Connolly was not telling the truth when he said on two occasions that he committed perjury.

No subtlety of analysis can make anybody believe that John A. Connolly was not telling the truth when he said he committed perjury on the books of account of that company.

No subtlety of analysis can make anybody believe that John A. Connolly was not testifying here and telling the truth when he said he was testifying for revenge and money.

Mr. Guthrie.— Just a minute —

The Chairman.— We are going to determine —

Mr. Jerome.— That is what we want to oppose. We don't want to waste your time and we don't want to waste our time, and we say, that if this contract, this service contract which has been so presented here in reference to which the Association of the Bar was so shamefully and shamelessly deceived, that it is inconceivable that the hard-headed men sitting on that Grievance Committee, everyone of whom I know personally, if they had had the picture on the stand of shame and perjury of that man here, the first day, would they have stood or got back of this proceeding; and what boots it that we might sit here or may not sit here for a summing up or analysis of facts that can have no impression. Can it change the fact that John Cohalan rendered a decision on a certain date; can it change the fact that that did not escape the attention of John A. Connolly; can it change the fact that immediately afterwards John A. Connolly went to the World and obtained this contract —

The Chairman.— We will determine that.

Mr. Jerome.— We are opposed and radically opposed to a wasting of time, but let me say this thing further, that if you desire a summing up here, then we must have time to present a summing up in a way befitting the dignity of this tribunal, and a cause; if we are going to have a summing up let it be a summing up that is a summing up. Don't let us have any brief, cursory things. If we are going to have any effort made to smirch this man's reputation after you have heard him and seen the type of man that he is, let us have a summing up that will be a summing up that will search and probe the motives of each and every person connected with it.

The Chairman.— We will take that into consideration. The Committee will adjourn to the Judiciary room immediately. This meeting will not adjourn, but will just take a recess for ten minutes, and I ask that counsel for both sides and all witnesses remain.

Recess.

AFTER RECESS.

The Chairman.— The Committee wishes to know what is the sense of the attorneys in reference to the summing up of this matter before the Committee?

Mr. Guthrie.—We would like, say, an hour, to sum up, provided we can have some time in which to go through the evidence and in which to prepare. As the Chairman knows, a great deal of time is saved in that way; and I think a desultory talk on the recollection of four days' testimony could not be made brief and concise, and we think that an hour to an hour and a quarter — probably an hour, would cover all that I have to say, particularly if I could say it after some time in which to prepare.

The Chairman.— How long would you want, Mr. Guthrie?

Mr. Guthrie.— I would prefer to do it early next week, Monday. If not, I should be willing to do it to-morrow.

Mr. Jerome.— Our feeling, Mr. Chairman, is precisely what I expressed on behalf of all the counsel on our side before you took your recess. It seems to us as I then endeavored to express to you, a work of supererogation before a group of trial lawyers, to sum up this case, because the facts are so simple. It has taken comparatively so little time to adduce them before you. They are held so clearly in mind; they are of such a nature that even a committing magistrate would not hold a man for a misdemeanor on that unexplained, even if Judge Cohalan had not taken the stand, and to spend time to present to a body like this a lot of vituperation — for that is about all that it can amount to against the parties on one side or the other can serve no useful purpose or aid you in coming to a conclusion. I venture to say that there is not a man in your group whose mind at this moment is not wholly and completely made up on this subject, and the object of the summing up is not the adducing of matter for public prints, but it is the bringing before a committee a matter which may be helpful to that committee in reaching a just and wise decision.

If your Committee believes that you can be aided in reaching a just and wise decision in this matter, that is one thing. We, on our side, fail to see how anything helpful may be done.

If there is to be a summing up, why we should prefer that it go on to-morrow, and not to-day, for the reasons that Mr. Guthrie

has indicated, so that we may, as far as possible, economize time, but all of us on our side of the case are radically opposed to the summing up as absolutely and wholly unnecessary.

The Chairman.— The Committee's position has been all through the hearing, to have the proceedings as open as possible, and give all sides a fair chance. If one of the parties to this proceeding, desires to have this matter summed up, the Committee is willing that they should have the time.

The only question that is up before the Committee is that we don't like to keep the members of the Committee any longer than necessary. This matter is fresh in our minds now, and we are willing to give both sides or whichever side wishes to present its views before the Committee, as much time as possible to prepare, but we think that the latest time that should be given should be 7:30 this evening.

We feel if we could dispose of this matter to-night, that we would like to do it. The Committee is willing to come back at half past seven and sit until twelve or one o'clock, if necessary, and hear all propositions presented, but if we would have the matter closed up to-day, we would be in a position, and it is very desirable on the part of the Committee to do it, we would be in a position to make our report by the opening of the session of the Legislature next Wednesday.

Mr. Guthrie.— I would suggest then, that it should be four o'clock.

The Chairman.— Four o'clock this afternoon?

Mr. Guthrie.— I think, rather than the evening.

Assemblyman Levy.— That is better.

Mr. Guthrie.— I shall try to take but an hour.

The Chairman.— We will give you as much time as you want.

Mr. Jerome.— That would not suit us. He has his time and our time, too. Half past seven would be a great deal better.

We did not expect this breakdown. We expected to come here prepared to meet something, and everyone of counsel have been engaged in seeing witnesses and preparing to meet something that has not come; and not one of us is prepared to go on and present in the way it should be presented to a body of this dignity a case

of this importance. We are surprised. We had no reason to suppose that a judge of the Supreme Court of the State of New York would be called upon to answer — I do not wish to characterize it — but what has been placed before you gentlemen — we are in no position to go to work and present this case to you right out of hand. At half past seven, we will be —

The Chairman.— The Committee decides upon half past seven. Will that be satisfactory?

Mr. Guthrie.— Perfectly satisfactory.

The Chairman.— Could you make some statement as to the time you need, but the Committee feels we are willing to give you whatever time you want.

Mr. Guthrie.— I so understand. I think I shall not be over an hour. I am perfectly willing, if it be a convenience to the other side, to come in at four or half past seven, and then let the other side take the whole evening, if they want it.

The Chairman.— I think we better hear it altogether.

Mr. Guthrie.— I think that probably the character of my remarks will eliminate a great deal of the argument that evidently is in hand to deliver. I shall try to avoid any unnecessary statements, and I think I can be ready by four or half past, and then—

Mr. Jerome.— That seems to be a very fair proposition on Mr. Guthrie's part indeed. It is waiving that which is deemed a valuable right, and it evidently indicates an attitude on his part of fairness and impartiality in the presentation of this matter, and that is one that I shall entirely accord to. I appreciate his position. He is practically waiving his right to close the hearing.

The Chairman.— Our procedure in former proceedings of this nature, has been that the Attorney-General began the opening, that is, the opening was begun by the Attorney-General and closed by the respondent.

Mr. Kellogg.— I desire to say, that I think my position as counsel to this Committee, in view of the eminent parties on both sides, requires no discussion of the facts of this case by me. I have been active in producing the facts before the Committee, but I don't think it is my duty to express any opinion as to the merits of the controversy before the Committee itself.

The Chairman.— I was just talking of the form we should follow.

Mr. Kellogg.— I don't care to be heard at all.

Assemblyman Levy.— Mr. Guthrie takes your place.

The Chairman.— The presentation will be made by Mr. Guthrie and closed by the respondent.

Mr. Jerome.— At half past four?

The Chairman.— And you are satisfied to begin at half past four.

Mr. Guthrie.— Yes, sir.

The Chairman.— Very well.

Mr. Guthrie.— I desire before you adjourn to make a statement on the record.

Mr. Guthrie.— I deem it fit and proper to state on the record that the Bar Association has been afforded by the Committee and its counsel, Judge Kellogg, every opportunity to call any witness who could give testimony as to any material facts relating to this matter; that the counsel for the Committee has in every respect facilitated and co-operated with the counsel for the Bar Association; that the Bar Association has called every witness who, so far as it knew, could testify to any material facts, except Mr. Cruikshank's partner, Mr. Blackman, whose testimony could only be cumulative of that given by Mr. Cruikshank; and that in the judgment of the counsel for the Bar Association, whatever evidence has been excluded on our offer might fairly and properly be the subject of difference of opinion; and that the counsel for the Bar Association do not believe that the investigation has thereby been materially curtailed or the door closed to the proof of any material facts.

I deem it also fit and proper to refer to the demand made in various quarters that Mr. Charles F. Murphy should be called and examined as a witness. In that regard, Judge Kellogg, the counsel for your Committee, informed me that if the Bar Association desired to have Mr. Murphy subpœnaed, or if in my opinion Mr. Murphy knew anything whatever about any fact material to the issues, he, on behalf of the Committee, would

direct the issuance and service of the necessary subpœna. I declined to have Mr. Murphy called because it would have been an indefensible performance quite beneath the dignity of this tribunal and of the great Association which I have the honor to represent; and I personally take the full responsibility of declining to call Mr. Murphy or any other person connected with politics.

I have one personal suggestion to make, and that is, one of the Committee asked if I was not counsel for the Pulitzer estate. As a matter of fact I am not counsel for the Pulitzer estate. I do not — I have never met in my life Mr. Ralph Pulitzer or any member of the family except Mrs. Moore. I happen to have advised Mrs. Moore — who was a daughter of Mr. Pulitzer — in regard to her personal affairs. I very much regret that a member of the Committee felt prompted to suggest that I was here as counsel for the Pulitzer estate.

Assemblyman Cuvillier.— Mr. Guthrie, for myself personally, I meant no insinuation so far as you were personally concerned. But this is the fact: I was informed that the records of the County Clerk show that in a suit pending that your name appeared as counsel for the widow of Mr. Pulitzer.

Mr. Guthrie.— No I have never spoken to Mrs. Pulitzer in my life. I have never appeared for her. I never had any relations with her at all.

The Chairman.— Assume you did. What difference does that make?

Mr. Guthrie.— I don't think that it makes the slightest.

Mr. Quinn.— Mr. Chairman, just to get the record complete, I would like to have it noted upon the record that there was served upon me, who am also a member of the Bar Association, a subpœna duces tecum on Thursday of last week requiring me to present any statements that I had prepared for Mr. Cruikshank, any statements that he had given to me either in the month of May or June in my office or elsewhere, and requiring also that I produce the stenographic notes of all such statements. I have the stenographic notes here.

I never prepared a statement for Mr. Cruikshank. I want that to go into the record, that that kind of a subpœna duces tecum, calling for the production of my stenographer's notes,

was served upon me, and that the stenographic notes are here and all copies of the statements.

Assemblyman Levy.— And that you were not called as a witness.

Mr. Quinn.— Yes.

The Chairman.— The Committee will adjourn until 4:30 this afternoon for the purpose of the summing up of counsel.

The Committee thereupon, at 1 o'clock P. M. took a recess until 4:30 P. M.

AFTERNOON SESSION.

Mr. Guthrie.— Mr. Chairman and gentlemen of the Committee, I find that it will be quite impracticable in this necessarily hasty and clearly imperfect presentation, to analyze and discuss the evidence which appears before you, but, as the duty to determine the result of this inquiry is the duty to draw whatever inferences are legitimate from the testimony before you, is cast not upon counsel, but upon you under the Constitution, we shall rely, of course, upon you, that that evidence will be carefully read, pondered over, and then that you will determine what the conclusions are that should be drawn from the sworn testimony now submitted.

I take it that the suggestion of Mr. Jerome this morning, that you were all ready to vote, without reading that testimony, is quite unwarranted; and that we may rest assured, that every member of this Committee in this matter of vital importance to the whole State will carefully read the whole of the record which is now submitted for their action.

It may enable us to start with a true compass and dispel some of the clouds of misunderstanding or prejudice, if we pause a few moments to trace the history of the proceeding.

It was Mr. Justice Cohalan who requested the Governor of this State to refer the matter to you for investigation. Hence, at his invitation, and not at our instance or instigation, is this proceeding here. Many remarks would seem to indicate a misapprehension in this regard. You will recall that the Governor reported to you that he had requested the Grievance Committee of

the Bar Association of the City of New York to file with him any and all exhibits and facts in its possession, together with their report, recommendation and conclusion regarding the same. The fact that he had requested the Bar Association so to report, was communicated to Judge Cohalan.

It was in compliance with that request of the Governor of the State, that the Bar Association proceeded with the investigation before its Grievance Committee. Now, what are Bar Associations throughout the State for? What purpose or reason for their existence, if not to investigate, so far as they can, and so far as the Legislature has seen fit to give them the power — for the Legislature has not given them the power to compel the attendance of witnesses or to administer oaths. But it is their duty, and the purpose of their organization to investigate, so far as lies in their power, all questions and charges and complaints affecting the honor of the Bench as well as the honor of the Bar.

Is the Bar Association of the City of New York after receiving this communication from the Governor of the State to fold its arms and decline to act and investigate and to perform the duty as well as it could?

For forty years in this State in all such matters it has been the Bar Associations who have been the champions and defenders of their own profession and of the Bench. It was the Bar Association that prosecuted Cardozo. It was the Bar Association that prosecuted McCunn. It was the Bar Association that prosecuted Barnard. It was the Bar Association of the State that prosecuted Maynard. It was the Bar Association of the State that prosecuted Judge Hooker; and some Bar Association had to step in in this case and submit the charges and the evidence first of all to the Governor, and then, through him, to you.

In the Maynard investigation, to come to more recent times, Judge Maynard submitted to the committee of the Bar Association the fullest statement, and in the Hooker case, as the official records show, Judge Hooker saw fit to appear before the State Bar Association's Committee and testify.

Judge Cohalan had the opportunity offered to him with the fullest statement of the nature of the charges to appear before the Bar Association. He was not compelled to do so. It would be unfair to draw any inference from his failure to do so if he preferred, in his wisdom, to have the whole matter ventilated and investigated here, but it does not lay in the mouths of his repre-

sentative to complain that the witnesses before the Bar Association were not cross-examined when those witnesses saw fit to abstain from attending the sessions of the Grievance Committee and availing themselves of the opportunity given to them to cross examine the witnesses and bring out some of the deplorable facts which have been developed before you and which should have been developed before the Bar Association.

Now, we don't profess for a minute that the findings of the Bar Association are evidence in any way against Judge Cohalan; but we submit that those who deliberately refused to attend and cross-examine witnesses cannot afterwards be heard to criticize those who conducted the proceedings, because they did not have somebody there to cross-examine the witnesses. But I need hardly tell a body of lawyers, that the most effective way of getting at the truth, is the cross-examination of witnesses; and we were deprived of the benefit of that cross-examination,— I mean the Grievance Committee,— by the refusal of Judge Cohalan to appear before us.

Now let me add another word about the Bar Association, and I hope then we will drop the subject. The Bar Association is not being investigated here, and however much anybody may dislike it for any reason, or its counsel, that fact or circumstance has not the remotest connection with the only matter you are investigating, or indeed authorized by the Legislature to investigate. You may impugn our motives, you may disagree with our ideas of professional standards of judicial conduct or personal character, but that is not the question which you are called upon to determine in your office as members of the Legislature of the greatest State of the Union.

Now, not a single member of this Judiciary Committee differs with us as to certain fundamental and eternal propositions in all decent civilized communities:

The first is that a justice of a court like the Supreme Court of the State of New York, with the vast power that he has in regard to the property and good name, the repute, the personal liberty and the like of every individual, should be above all reasonable grounds for distrust or suspicion.

The next proposition is that the due and satisfactory administration of justice in this State, as in all civilized communities, requires, demands, implicit and unqualified confidence in the moral and intellectual standards and practices of its judges.

And the third proposition is that the conduct of a highly educated, trained and experienced lawyer must be more strictly judged than the conduct of untrained or ignorant laymen. The lawyer must be presumed, and it is reasonable and fair to presume, he is presumed to appreciate the import of his conduct, and the inference that may be drawn from his acts, and the evidence which his acts create. What might be overlooked or forgiven in a layman out of generosity or from any other benevolent consideration, cannot be tolerated in justice when we are considering the character of a judge. And what might be frequently, and properly, overlooked or forgiven in a layman is frequently not to be leniently treated in the case of a highly educated and trained lawyer, and equally frequently in the case of a judge sitting on a great court.

The character of Connolly is not involved in this proceeding, except that the exhibition before you tends to shatter his credibility. We concede that the testimony of Connolly or of any such man or any such informer, or, as the word was used yesterday, " squealer," who has been engaged in corrupt and dishonest transactions is never to be believed in any legal proceeding, unless corroborated, and, in this case, unless corroborated to your entire satisfaction. And if you have the slightest doubt as to the corroboration, you ought to give the benefit of that doubt to Mr. Justice Cohalan.

But, pitiable and wretched a character as Connolly has been shown to be, you cannot forget, nor can friendship nor generosity blot out the fact that for ten years this man, now shown to be despicable, seemed to have been the intimate business and social friend of Mr. Justice Cohalan.

Men don't become so rotten and bad all of a sudden. You saw the man. You heard him testify. You saw his shiftiness and you were able to judge whether that man paraded or was to be taken for ten years as a man fit to associate with by a highly trained, educated, honorable member of a great profession.

This morning Judge Cohalan confessed that one of his acts was the greatest mistake of his life. Submit that a number of the conceded facts in this record show great mistakes, capital blunders on the part of Mr. Justice Cohalan, and if he now finds himself in this humiliating position, a position humiliating to the Bench and humiliating to our profession, the man principally responsible for it is Mr. Justice Cohalan for his mistakes, for his thoughtlessness,

for the manner, irregular manner in which he conducted his business.

Mr. Justice Cohalan concedes that he did render services in connection with securing city contracts, and other services, and that Connolly paid each of the amounts sworn to by Connolly, except the $55 at about the dates specified by Connolly,— in bills.

Now, have we not heard for many years in this State, in innumerable proceedings, in all the courts, that the use of bills in large transactions is a suspicious circumstance? You have it from Judge Cohalan himself, that during the three years when he was rendering these services, he kept no record whatever of the rendition of those services. Need I ask lawyers whether it is customary to keep record of services rendered to corporations or individual clients of the value of $4,000, or let the matter drift along, take payment in bills, and never make the slightest entry or record, either of the rendition of the services or the payment in bills?

Again, a suit is brought, practically charging that all these payments, which the respondent admits that he received, were received illegally or corruptly. The charge is treated as blackmail, but, nevertheless, in order to prevent disclosure, the payment is made of the full amount, to the last cent, and then the payment is made in bills in order that there should be no record of that transaction.

I doubt very much whether any great political party can be served by its leaders submitting to such blackmail. I doubt whether it could possibly have injured the great Democratic party in the city of New York to have had it disclosed in 1909 that such a creature as Connolly asserted against the oath of a lawyer in good standing that the lawyer had collected money from him in pursuance of a corrupt agreement, to approach small city officials. The story would not have been listened to for a minute. But there was a great deal to be considered at that time than the Democratic party or Tammany Hall. There was the honor of a great profession. There was the honor of Mr. Cohalan as a lawyer, and there was the honor of the individual.

I submit to you that Judge Cohalan committed more than a mistake when he submitted to the blackmail of Connolly and paid him $3,940 in bills in order to stop the exposure, or as it is sometimes, termed, as hush money. These transactions covering two years, $500 and $1,000 at a time, invariably in bills, invari-

ably without any record whatever kept, except the record that happens to have been produced out of the books of the Victor Heating Company which are fully corroborated to-day by the admission of Judge Cohalan that at or about that time he received in cash a sum corresponding to the amount that the books show was withdrawn from the banks of the Victor Heating Company.

Is it conceivable that this highly educated and trained and skilled lawyer did not appreciate the seriousness of what he was doing, when he was paying in bills this hush money; and are you satisfied that the only reason why he did it was to serve his party, and that he was willing to put this thing upon himself and his profession in order that he might insure the success of Tammany Hall during the campaign of 1909?

The inference to be drawn from these facts is to be drawn by you and not by us. Again, how extraordinary the substitution of the perjured amended complaint for money loaned, the statement by Cohalan of the agreement in the presence of Cruikshank, that they would agree that the money had been loaned, in order that this bogus, fictitious complaint or pleading might be drawn; the false records then made; the delivery of that false and perjured affidavit to Judge Cohalan himself, and the writing on the back of that rotten, manufactured, fabricated evidence of the receipt for the bills paid on the 27th of May by Mr. Justice Cohalan himself to Mr. Cruikshank.

We ask you to take the evidence of Mr. Cruikshank and Judge Cohalan and determine yourselves whether or not the transaction was extremely suspicious; whether it was not a cardinal mistake for any lawyer to enter into, and whether it does not tend, admitted as it is on the stand by Judge Cohalan, to shatter the confidence of the community, I will not say in the character, but in the mental and moral poise of Mr. Justice Cohalan.

Now, jumping to the next significant fact, the note of $4,000. You will read the testimony in that regard and you will conclude whether you, as reasonable business men and lawyers are willing to accept, whether the people of the State of New York are likely to accept — for behind you as representatives are the people of the State of New York, although the duty in this matter is cast upon you now individually — are you willing to accept the story that this note and this affidavit, which we insist was nothing but a perjured affidavit, were given solely as evidence of the retraction of false charges, of the withdrawal of charges which

had been previously made? If that had been the purpose, of course, a brief statement, sworn to by Connolly, could have been prepared.

As I recall Mr. Justice Cohalan's testimony — and I want scrupulously to adhere to exactly what he said — Mr. Connolly refused to give him any such statement, and then, in its place, not as evidence of an indebtedness, not as evidence of a promise of a bankrupt to pay, not for that purpose, but for the sole purpose of creating evidence to supplement and establish what? The truth of the amended complaint which was then in Mr. Cohalan's pocket, or to create a new record, to fabricate new evidence, which would enable Mr. Justice Cohalan, as I understood him to state this morning, to show to others as proof that Connolly retracted or confessed in concrete form that his prior charges were false.

We submit that if you will read that note, and the accompanying, so-called estoppel affidavit, that it is almost preposterous to suggest that this clever lawyer accepted this note and this affidavit, at that time, for no other purpose than as evidence of the withdrawal of the previous charges. But if that were in doubt, let us come to what happened this year:

Mr. Justice Cohalan is on the bench as a member of the Supreme Court of the State. He receives the most insulting letter that any Justice of the Supreme Court of this State, and I venture to assert of any state, ever received. The letter was contemptible, for a lawyer to write him. The letter practically charged a criminal offense against Mr. Justice Cohalan, that he took this note as a consideration for a promise to procure this individual, Connolly, a public office.

What ought Mr. Justice Cohalan have done for himself, for his profession, for the profession that he was sitting on, for his colleagues with whom he was associating every day? He ought to have defied Mr. Warren. He ought, if he hadn't been afraid that something might be exposed, he ought to have turned the letter over to somebody, such as the Bar Association, for its consideration.

I have not the time to stop now and read that letter with its charge to a Justice of the Supreme Court, that he had practically committed a criminal offense two years ago. That you will read, and then you will ponder upon the question, whether Mr. Justice Cohalan did not commit, two months ago, a fundamental mistake then, the greatest mistake in his life, the greatest mistake that

any judge of the Supreme Court of the State of New York ever made, when he promptly, on the very day and the very hour that the threatening letter demanded, surrendered the note and the accompanying fictitious or false affidavit.

Now, as I have stated, the duty of an analysis of this evidence is cast upon you by the Constitution, and you are to draw the inferences which you think are justified by the sworn testimony. If you can consistently conclude, without regard to a scintilla of Connolly's testimony, that the conduct of Mr. Justice Cohalan was not reprehensible, you will so declare.

But I venture to submit that the conceded and undisputed features of this whole distressing case established not only the grave mistakes and acts on the part of Mr. Justice Cohalan which are blameworthy, but such as to shatter the confidence which the people of the State of New York ought to repose unreservedly in the honor, in the spotless honor of their judges.

I think that I have referred to the features of this matter which I desire to call to your attention. In describing these facts I hope I have not in any way injected my own conclusions. They have nothing to do with this matter. The whole duty, the whole responsibility to the people of the State is with you. It is for you to determine whether the conceded and undisputed facts, the facts fully corroborated by the testimony of Judge Cohalan himself and Mr. Cruikshank, do not render it necessary in the best interests of the whole State that Mr. Justice Cohalan should be removed.

Mr. Jerome.— If it please you, gentlemen, Mr. Chairman and gentlemen of the Committee, I have listened with intense interest to Mr. Guthrie's presentation of the case, of the evidence that you have been engaged in taking, the presentation of it from his standpoint; and I think that you as lawyers will agree with me that he has presented it fairly and has made it appear to all of us stronger than we might think it was without his careful analysis and careful clear-cut presentation of it.

But like all bodies of evidence, when you present a part you get a very false idea of the whole. And there are many, many features in this that he has not presented and because, in the theory of our law was not called upon to present, for it was his side, in sustaining the charges, that he was called upon to present, and not that side of it, when properly understood, which will relieve I think, wholly and entirely in the mind of any just, right-thinking man,

Mr. Justice Cohalan from the serious imputations that Mr. Guthrie claims this evidence puts upon him. And to make it clear, if you will bear with me, I would like to go somewhat into the chronology of these events as they appear in evidence before you.

I do not want to draw the conclusion from the chronology of these events. I want you, fair-minded, thinking men, to draw those conclusions. And I think the facts will make the conclusions so clear that he who runs may read, and that the conclusions will inevitably follow from the facts.

We have it in evidence that John Cohalan, a brother of this respondent, is the Surrogate of the county of New York. And we have it in evidence, slightly before that meeting at the Harvard Club, that John Cohalan rendered a decision as Surrogate of the county of New York in which he rejected an inadequate — to characterize it by no harsher term — appraisal of the estate of Joseph Pulitzer of those great properties to a large portion of which the present President of the Press Association — of the Press Company that publishes the New York World, succeeded.

And we have it that this man Connolly, whom it is useless to waste time in characterizing, we have it from his lips that this incident of Mr. Surrogate Cohalan's rejecting this inadequate appraisal, that this incident did not escape Mr. Connolly. Few incidents that opened an opportunity of blackmail, I venture to say, ever escaped the eagle eye of this informer.

And in December, soon after decision of Mr. Surrogate Cohalan, soon after this incident is borne home to the mind of the astute Connolly, we find him at the Harvard Club in conference with Mr. Pulitzer. And what is he there for? He tells you from his own lips that he was there for money and for revenge.

It appears that he tried to sell this to some other paper. I guess I violate no confidence in the newspaper world, it is pretty well known that he tried to sell it to the Journal for $10,000 on the eve of another political campaign. But we find him there in conference with Mr. Pulitzer, and from that conference the fruit that is born on the third of January of this year is this extraordinary contract, a shameful contract, to give it no harsher characterization.

Every newspaper man knows that it was nothing more than an effort of a vulgar tipster to sell his wares. Even the slight experience with journalism that Mr. Ralph Pulitzer had was suf-

ficient to apprise him that what Connolly wanted was to sell goods of some kind and to get money — and as Connolly says, revenge as well.

Why cloak, unless the sequence of these events have significance, why cloak such an attempted barter to sell one man's honor under the guise of a contract of employment? Has the World come to that business condition that it needs in its employ, for any other purposes than to deliver to it such goods as this man did deliver, the services of a Connolly? Why cloak such a transaction under the guise of a contract of employment? But then, significant in it: "But if during those four months, he, Connolly, does not diligently and faithfully pursue the investigation and corroboration, he shall return to the Press Company all money paid him."

This shameful contract concealed from the Grievance Committee of the Bar Association — for I know every man on it, and they are capable, upright, fair-minded men, not quite accustomed to dealing with the type of man of Connolly, but no one who knows them would believe that if they could have had that contract before them, and the exhibition that Connolly gave for two days on this stand — you never would have heard of any charges from them, in my opinion; but he is to "pursue diligently the corroboration as well as the investigation," and that is the 3d of January of this year. Now, how, as he turns it over in his crooked and devious mind, is he to get something in the nature of corroboration? And you see the workings of the mind and how it dawned on him — once on the eve of a bitterly fought campaign in 1909, he had gone to this man and blackmailed him, and he had made the mistake that every man makes, who ever yields in the slightest degree to a blackmailer. He had blackmailed him and blackmailed him successfully. We were on the eve again of a campaign which promised from all indications to be quite as bitter as the campaign of 1909. Moreover, this astute counsel who must have advised in this matter in behalf of the World, was well acquainted with the libel laws. He knew, even under our lax administration, where a man's honor may be taken from him as if it were nothing, he knew even under such laws, that it would be somewhat dangerous to libel a judge of the Supreme Court, but in the First Judicial Department of this State, our rules require the immediate filing, or practically the immediate filing of pleadings in an action, and if all this sort of stuff could be embodied in a pleading, the World would have

its protection in the publication of it, for it was privileged; it would be a fair report of what was going on in a court of justice.

And so the astute Connolly seeks that astute Mr. Warren. I shall not disagree, Mr. Guthrie, with your characterization of him, I agree with it in its entirety — he seeks the astute Mr. Warren, who endeavors to lay a foundation that will avoid the libel laws, and at the same time will afford Mr. Connolly the opportunity of hanging on to this money, because he will be diligently and faithfully pursuing, not alone the investigation, but the corroboration, which was essential as a condition precedent to his getting the additional $9,000 that the contract called for; and Warren writes this letter to Mr. Justice Cohalan, which contains among other things this clause:

" His statement to me,"— that is the statement of Connolly — " being that such note was given by him upon your express promise to procure him a position,"— and note there is nothing said there about a public position.

" To procure him a position, which you have failed to do, in that more than two years have now elapsed." Bear in mind, that Warren says to Judge Cohalan this too, that the first thing he said to Warren was that the statement contained in the letter as purporting to come from Connolly, was false in its entirety.

The feeling that Mr. Guthrie has expressed, as to the correct line of conduct, that Mr. Justice Cohalan should then have pursued, was much my feelings. But those who knew Mr. Justice Cohalan a few years ago, when he was busy in the rough and tumble of our public life, would realize that he would be the last man not to resent such a thing and not to fight against it along the lines that Mr. Guthrie has indicated. But to realize just the position that then existed, it is perhaps necessary for me to travel slightly without the evidence; but I shall state no fact that is not known to you gentlemen, I believe, and I think to Mr. Guthrie himself — and which is true.

Mr. Cohalan, for many years was active in the politics of the city of New York. The stir, the excitement of it, the rough and tumble of it appealed to him, and to his fighting nature. There came, however, into his life a gentle and a softening influence, one to whom that sort of a life did not appeal. And finally there

came a time when at her request, he yielded up that which was congenial to him, and his nature, and accepted a position or appointment, afterwards confirmed by election that he now holds. He had hardly entered into it, spread before him was a career of usefulness, a career that pleased her, that separated him from the life that was congenial to him but not to her, when she was taken from him. Why? Who can tell? Perhaps it was that her gentle nature would be saved the pain of seeing him submitted to the indignity of having to defend his honor against the charges of such a scoundrel as this man Connolly.

Those who have known him, know that from that day to this, the rough and tumble, bitter, resentful, fighting spirit that was there has been softened, and he is different in that respect from the man that he was.

Shortly before the appearance on the scene of this blackmailer and Mr. Warren, he was taken down, and went to the hospital, and suffered for weeks, there undergoing an operation of great severity, and he came out in a physical condition that necessitated his laying aside all work, and when he came out he came only out to find those seven little ones all taken down with illness, as he was planning to take them abroad on his vacation.

And in that situation this infernal scoundrel, seeking to earn his dirty money from the man who was willing to buy his dirty services for money, goes to this lawyer and writes this letter. Once had he suffered blackmail at the hands of this scoundrel. Now this note meant nothing. He never intended that it should be paid. It was preposterous that anyone should expect that it would be paid. That Connolly and all his ilk and kind should for all time be severed from him and cut away from him was the only thought that he had in mind, and he says to Warren, "There isn't a word of truth in this thing; take the note; I never expected to be paid a cent on it." He not only never takes anything, but the simple receipt from Warren remained for him or Connolly to get. Never had it at any time during these years occurred that Judge Cohalan had asked for it.

That is the chronology and psychology up to the point of the yielding of that note. And if it was a mistake to yield that up

in the face of an insulting letter, then it was a mistake, but it was the mistake that an honest, decent, honorable man, wanting to be shut from a hound like Connolly could well make, and not something that renders him or any other man, making a similar mistake, unfit to be an honorable member of an honorable profession, or to sit upon the bench of the Supreme Court of the State of New York.

The next step is that they have got their corroboration, they think. At last the work of the Press, the New York Press Publishing Company (reading) "The services of such Connolly in making these investigations and the developments of the same are to be exclusively for the Press Publishing Company, and the Press Publishing Company shall be the sole judge of whether the facts developed by the investigation justify publication."

Taking the same view that Mr. Guthrie has, but from altogether different motives, they say that Connolly has delivered the goods; he has got something there that is justified for publication. This man in his hour of weakness, in his hour of sorrow, surrounded by misfortunes, is caught; we have got from him something that is an admission of dishonor, and we got this for publication in the World. And then one of our eminent reformers and distinguished citizens in the city of New York, not quite satisfied with the slow movement of events, and not entirely satisfied with his own absence from the eye of the public, writes a letter to the Bar Association urging them on, and the thing comes before them, and a letter is written to Mr. Justice Cohalan asking him, or giving him the opportunity to appear before it.

When you come to examine those by-laws of the Association of the Bar of the City of New York, you will see that there are two methods of procedure. A member of the Bar Association may be suspended for acts and conduct prejudicial to the interest of the Bar. It is not under that by-law that these proceedings were brought. The inquiry proposed was practically an inquiry into Mr. Justice Cohalan's conduct to determine whether Mr. Justice Cohalan was a fit man to remain upon the Bench of the Supreme Court of the State of New York.

Mr. Justice Cohalan, replying to the letter of the Bar Association, among other things, says this:

"In reply thereto I beg to say that while as a member of the bar I would welcome the opportunity thus offered me in the form provided by your Association, yet I feel that as a Justice of the Supreme Court I have no right to submit those charges to an investigation at the hands of your tribunal."

Whether Mr. Justice Cohalan should appear before the Bar Association was left by him entirely in the hands of his counsel, and we were unanimously of the opinion that whatever Mr. Justice Cohalan's personal inclination might be to submit a question touching his honor to his professional brethren, the great office of a Justice of the Supreme Court entrusted to him by the votes of the people — an investigation of that he had no right consistent with its dignity to submit to any unofficial body, but he had right to submit such an investigation alone to a body, that instrument the Constitution created for this purpose as the proper body to investigate it.

Now, we are here in proceedings characterized in your own document "In the matter of the investigation demanded by the Hon. Daniel F. Cohalan."

An illustration that brings home to your mind in a moment the duties of Mr. Justice Cohalan as a Supreme Court Judge to submit an investigation of his condut to no other body except this is very apparent if you will think for a moment how preposterous the proposition would be for the Inns-of-Court in Great Britain, vested with great power by law and custom — how preposterous the suggestion would be that the Inns-of-Court should investigate the conduct of a member of the great Court of Judicature in Great Britain; and that is the reason why instead of appealing to his professional brethren and submitting to their investigation — something that I should have been delighted to have him done — for I know those men on that Committee and I agree, as I understand Mr. Guthrie practically to admit, that that would be the end of the thing. They are fair minded, honest, decent men and that is the reason I am in this case, and I feel they have made a grave mistake, though they made it not dishonestly, but honestly and uprightly and through no such sinister motives as led to the formation of this contemptible contract that has been brought before you here.

That is the chronology of the whole thing. Let me briefly, now, for a moment deal with the charges themselves; they are five in number.

The first charge is to the effect that by the use of his political influence Judge Cohalan secured certain contracts.

If my memory serves me right, even Connolly did not swear that Judge Cohalan said that he would use his political influence.

Mr. Kresel.— He swore just the opposite.

Mr. Jerome.— He swore, I believe, just the opposite of that, and that he said any such thing you are asked to infer from the fact that Judge Cohalan had an interest in politics and endeavors to secure this man contracts.

That those were services that he had a right to render, that those were the services that he had a right to be paid for, that they involved no moral obliquity, they didn't even involve illegality, they were strictly legal, that has been decided in a number of decisions in this court and the United States Court, and I will not delay on that further than with your permission to hand you a memorandum of authorities which shows conclusively the legality and propriety of those services (handing paper to Chairman). That it seems to me on the face of Connolly's testimony himself that charge must be swept away.

The second charge contains three specifications. It charges an agreement with Mr. Cruikshank. The first is to destroy evidence.

Well, I don't think any lawyer who has had to deal with some of the rough and tumble practice of life, whose course has not laid smoothly along the lines of large corporate properties, where the integrity and truthfulness of everyone that you have to deal with is assumed, and where all that you have to bother about is, not an astute adjustment of the facts to principles of law, but you only have to make sure that you are diligent and understand them, and apply the principles of law properly and duly, I don't think one whose practice has laid along those lines entirely, can quite appreciate what blackmail, in the ordinary sense of the term is.

I don't believe there is a practising lawyer in the State of New York or any part of this State, who has represented a client

that is being blackmailed that has not demanded every scintilla of evidence, every letter, every document, and every paper connected with the thing be delivered to him, and if he has not destroyed it it is only because he has kept them for fear that they may not all have been delivered to him, and he may have to produce what he has got to show what the transaction actually was.

It is not a destruction of evidence, it is not within the scope or meaning or purpose of the law; a controversy such as that was settled and completely finished and out of the way. The action was discontinued. General releases were executed. All claim was absolutely, from a legal standpoint, destroyed, and to say that then to destroy a pleading or any paper connected with it was a destruction of evidence is, I submit, an unfair distortion of the fact.

The second subdivision is the preparation and verification of a false amended complaint.

It seems to me that is puerile. They bring a complaint to him and serve him that charges him with something involving him with dishonor. He said, You blackmailer, I am going to pay the blackmail, but I won't pay you anything on anything that admits dishonor. Oh, well, this man says, I do not care, it was ultra vires, this man says I am not going to let you have this money of this corporation, this money was loaned to you. What does this man do, just what any one does that has got good sense when he has got to submit to blackmail, he says he is not going to pay it on something that makes him admit or savors of dishonor.

You heard Cruikshank's story, you heard Connolly's story, and you heard Cohalan's story on that point of view. And as practicing lawyers, versed in the drawing of pleadings, and if you can construe that into an act properly described as the preparation and verification of a false amended complaint, then we are helpless.

The destruction of account, book of accounts, records and writings belonging or pertaining to the business. Cohalan swore he never destroyed one of them. Cruikshank said he never could have destroyed them because Cohalan didn't know of their existence, and that he, Cruikshank, did not destroy them, and any destruction

of records or books of accounts, and that is something which would be serious because they were not the property of Cruikshank nor Cohalan, nor the property of Connolly. Any destruction of that kind Connolly did, and Cohalan or Cruikshank's connection with it rests upon Connolly's unsupported testimony, impeached both by Mr. Justice Cohalan and Cruikshank.

The third complaint is that he took this note for $4,000 to secure Connolly an appointment to a public office.

I have never been very much in the councils of a political party, but I have had opportunities to observe somewhat the movements of politicians and persons who were supposed to be grafters; and in that respect I claim to be a highbrow. In that respect I have an advantage on my fellow highbrows in perhaps a wider experience.

It seems to me a person must have been very much out of touch of the life of New York that could believe for one moment that a man would take a note for that sort of thing, a note that was absolutely worthless, that you could not collect a cent on; that he not only took that note — you might say he would take it with the idea of its being paid to him from salary, but if that was the idea, why for heaven's sake didn't he get him a job; and would you gentlemen doubt for one moment if Daniel F. Cohalan turn to it and try to get it in the city of New York that he couldn't have got some kind of a job in the city of New York or the State, with the control in politics such as they are? Has anyone doubt on that subject for a moment as a practical proposition?

Do you think anybody would take a note from a duck like Connolly for $4,000 for a political job, and if he did take it, do you think he would not get it for him?

It seems to me my brethern of the Bar Association have been somewhat misled by their lack of knowledge of the real conditions that prevail in the great metropolis.

The fourth charge is " that the respondent agreed with the said John A. Donnelly to have the said Connolly make a false affidavit to the effect that there were no defenses to said note, and no counterclaims or offsets against the same."

There weren't any. This man had given up his $4,000 that

under those decisions he was entitled to it, and every cent he was entitled to — he had been blackmailed out of it, and when this man gave him back the money, or gave him a note representing it, does any man for one moment see where there were any defenses or any counterclaims or offsets against it? The affidavit was true in every detail.

The fifth charge is "That Mr. Justice Cohalan issued false and misleading statements."

You have heard all that ingenuity and the World could present to you, and you have heard Mr. Justice Cohalan's statement here to you this morning, and I leave it to you to say when you read that statement, if it is not true, if it is not true; and true and candid in every respect and in every way.

I have finished, gentlemen. It seems to me that this has been most fortunate, trying as it has been, that this proceeding was brought. It seems to me it has done something much above and beyond the vindication of Daniel F. Cohalan. It seems to me that it has taught two great public lessons — the danger of ever yielding for any reason in the slightest degree to a blackmailer; and, second, it has revealed the most shameful chapter in journalism in our generation, and it has made plain that government of the newspapers for the newspapers, and by the newspapers, is inconsistent with the dignity and independence of our public officers.

Mr. Guthrie.— I have not seen the memorandum filed by respondent, but I think the Drake case as matter of law, points out the difference between proper and improper contracts, the case of Drake against Lauer, 93 Appellate Division, affirmed without opinion in the Court of Appeals, 182 New York 533. I think that case cites the famous case of Mills against Mills, 40 New York 543.

The Chairman.— What page in the Appellate Division Reports?

Mr. Quinn.— They are all in the brief, every one of those cases is in the brief.

Mr. Guthrie.— I don't know what the other cases are. Did you cover the whole subject?

The Chairman.— There were two.

Mr. Stanchfield.— Those two cases are in there, that you are speaking of now.

Mr. Guthrie.— Well, if you have discussed those two cases — is that the only point you discussed in the memorandum.

Mr. Guthrie.— Yes.

The Chairman.— Would you like to file a brief with the Committee.

Mr. Guthrie.— On the question of law, I don't. If you desire me to file a brief on the facts, I will be glad to do it.

The Chairman.—I do not think that is necessary.

Mr. Guthrie.— I think the question of law, as to what are not proper contracts — I think is very well settled and pointed out in those cases.

The Chairman.— Anything further that anybody wishes to suggest to this Committee.

Mr. Kresel.— Those corrections that are to be made in the record. There are some mistakes in the record as printed; Mr. Chrystie and I will get together and draw a memorandum of what the corrections are, and may we submit that some day next week before Wednesday?

Senator Wagner.— They are not vital?

Mr. Kresel.— I think not.

Assemblyman Levy.— Mere typographical errors.

Mr. Kresel.— I do not think they are of any importance.

The Chairman.— Submit them by Tuesday, so we may submit them to the Legislature at the session Wednesday.

Mr. Kresel.— We will submit them on Monday.

Mr. Guthrie.— We will submit them on Monday. If anything

serious is discovered, it ought to be brought to your attention before you act.

The Chairman.— You can get in touch with some member of the Committee who will remain here during the week.

Mr. Kresel.— We will send it up Monday.

The Chairman.— You may send it to the Chairman.

Mr. Guthrie.— On Monday.

The Chairman.— The proceedings are now declared closed. There is nothing further from either side, is there?

(No response.)

The Chairman.— There will be a meeting of the Joint Judiciary Committee immediately in the Committee room.

REPORT

ALBANY, *July* 17, 1913.

To the Senate and Assembly:

The joint Judiciary Committee of the Legislature appointed pursuant to a concurrent resolution of the Legislature of June 25, 1913, to investigate the matters contained in the message of the Governor, transmitted to the Legislature on June 25, 1913, relating to certain alleged acts of Daniel F. Cohalan, a justice of the Supreme Court, and to hear the evidence and report the proceedings with its findings and recommendations thereon to the consideration of the Legislature, respectfully submits the following report:

Public attention was called to certain alleged acts of Justice Cohalan which tended to discredit and impair his personal and professional character and fitness for public office, by a series of articles published by a newspaper — The New York World. On June 18, 21 and 23, 1913, the Grievance Committee of the Bar Association of the City of New York investigated the various allegations made by the New York World and one John A. Connolly, and to that investigation said committee invited Justice Cohalan to appear personally and by counsel and to offer such evidence as he deemed advisable. Justice Cohalan did not appear personally or by counsel before the committee of the Bar Association, but informed it that he had requested the Governor to submit the charges to the Legislature for investigation. (Printed Record, page 4.) The aforesaid Grievance Committee examined various witnesses and made its report to the Governor, June 23, 1913, stating that the evidence prima facie sustained certain statements of facts and included a statement issued by Justice Cohalan and printed in the public press which it alleged was untrue and misleading.

On June 25, 1913, the Governor, by a message, called the attention of the Legislature to the report of the Bar Association with the exhibits, affidavits and documents annexed thereto, and

suggested an investigation of the alleged charges pursuant to article 6, section 11 of the Constitution. On the receipt of the said message concurrent resolutions were adopted providing for a course of procedure and referring the matter to the joint Judiciary Committee of the Legislature, to hear the evidence and report with all convenient speed of the proceedings had and submit a report with findings, conclusions and recommendations to the Legislature for its consideration.

On June 30, 1913, the aforesaid committee convened and counsel for the Bar Association submitted formal charges which were, pursuant to the provisions of the Constitution, duly served on Justice Cohalan. Said charges are set forth in the record herewith submitted. (Printed Record, page 41.)

Your committee convened on July 8, 1913, in the Senate Chamber and held daily sessions until the 11th of July, 1913, inclusive. The investigation was attended by the counsel for the committee, counsel for the Bar Association of the City of New York and by counsel for the respondent. All witnesses were heard that were presented for examination and all evidence admitted except certain minor matters of evidence which were ruled out as improper. At the conclusion of the evidence arguments were made orally by counsel for the Bar Association and by counsel for the respondent.

Fair and full opportunity for the presentation of facts has been given to all parties interested. No attempt was made to curtail the investigation or to prevent the production or examination of any witnesses produced by any party, and the efforts of the Committee along this line met with the approval of the eminent counsel for the Bar Association who, at the conclusion of the evidence, caused to be placed upon the record the following statement:

> "I deem it fit and proper to state on the record that the Bar Association has been afforded by the Committee and its counsel, Judge Kellogg, every opportunity to call any witness who could give testimony as to any material facts relating to this matter; that the counsel for the Committee has in every respect facilitated and co-operated with the counsel for the Bar Association; that the Bar Association has called every witness who, so far as it knew, could testify to any material facts, except Mr. Cruikshank's partner, Mr.

Blackman, whose testimony could only be a cumulative of that given by Mr. Cruikshank; and that in the judgment of the counsel for the Bar Association, whatever evidence has been excluded on our offer might fairly and properly be the subject of difference of opinion; and that the counsel for the Bar Association do not believe that the investigation has thereby been materially curtailed or the door closed to the proof of any material facts."

The proceedings had before your Committee have been printed, forwarded to each member of the Legislature and are herewith submitted in full. The Committee in discharge of the duty imposed by the Legislature now reports its findings, conclusions and recommendations.

The principal witness brought to sustain the charges was John A. Connolly, who asserted that he himself was a party to the transactions with the respondent that are said to be questionable. Connolly does not come before the Committee with even a suggestion of any proper motive. He does not claim to be moved by feelings of remorse or desire to promote justice. He testifies he was actuated by motives of revenge because of the failure of the respondent to accede to his wishes in the matter of procuring employment. The evidence clearly indicates mercenary motive.

It appears that during the past year Connolly entered into negotiations with the Press Publishing Company which resulted in a written contract of employment, of which the following is a copy:

"AGREEMENT BETWEEN CONNOLLY AND THE PRESS PUBLISHING COMPANY.

"Agreement, made this third day of January, 1913, between John A. Connolly of the city of New York and The Press Publishing Company (New York World).

"Witnesseth:

"Whereas, John A. Connolly has in his possession certain documents and facts bearing on matters affecting the public welfare, the publication of which if corroborated by evidence he claims

is obtainable with his aid, will be a public service, and has this day delivered certain of the papers and documents to the undersigned,

" Now, therefore, The Press Publishing Company agrees in exchange for the said documents and all of the other information in the possession of Mr. Connolly or obtainable by him in the premises to pay him one thousand ($1,000) dollars in cash at once on the signing of this agreement, and will give him employment in connection with the rental of the Pulitzer Building and its custodianship in such capacities as he may qualify for, from and after the date hereof, and will pay him therefor, at the rate of three thousand ($3,000) dollars a year for a total period of three years; and in the event of his death after four months but during the remaining contract period The Press Publishing Company agrees to pay the remaining salary to his legal heirs or representatives.

" In addition to this, The Press Publishing Company agrees to pay to said Connolly a commission of 5 per cent. of the collected net rental for the first year of occupancy of any tenants secured for the Pulitzer Building by Mr. Connolly. This commission shall be payable only to him personally.

" Said Connolly agrees to devote his entire time and energy during this agreement to the investigation and subsequently to the other duties.

" But in the event that the investigation made by said Connolly or such investigation as we may make independently or in conjunction with him, does not after four months from date develop facts justifying the contemplated publication in the judgment of The Press Publishing Company, this agreement shall then and there terminate, and any of said Connolly's papers in the possession of The Press Publishing Company shall be forthwith returned to him.

" The Press Publishing Company shall be the sole judge of whether the facts developed by the investigation justify publication.

" The services of said Connolly in making these investigations and the developments of the same are to be exclusively for The Press Publishing Company.

" Said Connolly has the right and option to declare this agreement at an end and terminate same without liability for damages after four months on giving The Press Publishing Company thirty days' notice of his intention to do so; but if during this four months he does not diligently and faithfully pursue the investigation and corroboration, he shall return to The Press Publishing Company all moneys paid him.

" This to bind the parties hereto, their legal representatives and successors.

" In Witness Whereof, We have hereunto set our hands the day and year first above written.

" THE PRESS PUBLISHING COMPANY,

" By Ralph Pulitzer, President.

" Witness: F. D. White.

" JOHN A. CONNOLLY.

" Witness: O. B. Pine."

Under this contract there was paid to Connolly the sum of $1,000 and certain weekly installments of the salary fixed.

We are not concerned here with the motives of the Press Publishing Company; the contract speaks for itself. The contract is important, however, as showing the underlying motives for Connolly's activities in attempting to prove his charges. The reward was large and the incentive to manufacture evidence was correspondingly strong.

With these considerations in mind we are of the opinion that practically no weight whatever can be given to any statement of Connolly, except so far as the same is corroborated by competent evidence, or by the sworn testimony of witnesses whose evidence we deem to be creditable, or by such facts as are admitted by the respondent. Under these conditions we think it will be conducive to the proper disposition of the various allegations if they are taken up for consideration in the order in which they were presented in the statement of the causes alleged.

Counsel for the Bar Association particularized the allegations as to the untruthful and misleading newspaper statement of the respondent charged in the fifth specification (Printed Record page 45.)

The first specification of the statement of the cause alleged is as follows:

> "That in or about the month of November or December, 1903, and again in or about the month of May, 1904, at the City of New York, said respondent agreed with John A. Connolly to obtain for the Victor Heating Company, a New York corporation, by use of his political influence, contracts and orders from administrative or executive officers of the City of New York for work to be done and materials to be furnished by said heating company to the City, or departments thereof, in consideration of the payment to him of a percentage of the profits of said company derived from such orders or contracts, and that said agreement was carried into effect by various acts, as more particularly set forth and referred to in said report of the Committee on Grievances."

It appears from the evidence that in the municipal election in the City of New York in November, 1903, the candidates of the Democratic party were chosen for terms which were to commence on the 1st day of January, 1904. At that time the respondent had obtained some prominence in the political councils of his party.

Connolly and the respondent had been acquaintances for about six years. Connolly was the controlling spirit in the Victor Heating Company, a corporation which performed steamfitting work and repaired boilers and pumps. Considerable work of the nature performed by Connelly's corporation was necessary in maintaining plants and machinery in public buildings of the city. The respondent aided in obtaining for said corporation, work in the Department of Public Offices and Buildings to an amount over $11,000; in work in the Department of Water Supply, Gas and Electricity to an amount over $37,000. There is no evidence that the respondent agreed to use his political influence to obtain this work. Repair work of this nature in sums of less than $1,000 under the charter of the city of New York was properly awarded without competitive bidding by the department heads. It is conceded in this proceeding that the work performed by Connolly's corporation was satisfactory, fully up to the specifications and

rendered at fair and reasonable prices. That the work was of the same nature, and the prices paid the same as had been paid to others engaged in the same enterprise. Nothing was lost either in the efficiency of the work or in the increase in the cost thereof in the slightest degree.

The condition is absolutely the reverse of those conditions disclosed in Drake v. Lauer, 93 App. Div. 86, affirmed in 182 N. Y. 533, cited by counsel for the Bar Association.

In that case the contract contemplated in addition to procuring contracts from the State "the obtaining from the office of the State Engineer the estimates of the costs of the work which were not opened to other bidders upon the work" (pages 90, 91), a provision clearly against public policy.

There is nothing to indicate any improper use of political influence and no suggestion of any illegal diversion of the public funds.

Connolly testified that for the services in procuring the contracts he agreed to pay to the respondent 55 per cent. of the net profits and that this agreement followed the rejection of a proposition made by the respondent that he be given one-half of the stock of the contracting company. There is no corroboration of these statements in the evidence of any other witness. It is expressly denied by the witness O'Hanlon who, Connolly stated, was cognizant of the arrangement.

Connolly further testified that a certain letter which contained this offer was dictated by him, typewritten by O'Hanlon, copied in the back of a letter book and mailed to the respondent; that later Connolly removed the copy from the book and delivered it to the respondent, who crumpled it up. O'Hanlon, however, denied any knowledge of this letter or of any percentage agreement. The letter, if copied, was not in its chronological order and was not indexed as were other letters in the book.

A letter press copy of a statement in the back of a personal letter book of Connolly was produced in evidence, said to have been made by the bookkeeper, Wiley, about April, 1905, showing the alleged transaction with respondent up to that date upon the basis of 55 per cent. (See Comp.'s Ex. 21 and 22.) This statement also not in its regular order, undated, containing no name, in the back of a letter book of Connolly preceding and succeeding

which pages had been removed, not shown to have been brought to the knowledge of the respondent, is not to be considered as binding upon him.

We are of opinion that there is not sufficient evidence to sustain the charge that an agreement existed between Connolly and respondent for the payment of a percentage of the profits.

The respondent concedes that he received the various sums alleged to have been paid by Connolly, with the exception of the item $55.55, claimed by Connolly to have been 10 per cent. of the first payment of the Department of Water Supply, Gas and Electricity. The so conceded payments aggregate $3,885 and are scattered over a period of three years. The respondent testified that he rendered services of a professional nature to the corporation involving the conduct of litigation, consultation, advice and other services of a running and continuous character in connection with these contracts and with various other matters, and that the payments were made in consideration of these services.

From our examination of the authorities, we are of the opinion that there was nothing illegal in the rendition by the respondent of the services mentioned, nor in the acceptance by him of compensation therefor.

> Lyon v. Mitchell, 36 N. Y. 235; Dunham v. Hastings Paving Co., 56 App. Div. 244; Breen v. Union R. R. Co., 9 App. Div. 122; Swift v. Apsell, 14 Misc. 433.

The second specification of the charges relates to the alleged agreement for the destruction of evidence, the preparation and verification of a false amended complaint, and the destruction of the accounts and other records of the Victor Heating Company.

It was testified by Connolly that Mr. Cruikshank, his attorney, had mutilated or destroyed certain canceled checks, check stubs, and accounts in the ledgers of the company after the repayment of the monies by the respondent.

It appears to have been contemplated by all the parties concerned that those papers in the action which were regarded as unnecessary should be destroyed in the effort to prevent Connolly from renewing his activities against the respondent. The

destruction of these papers did not constitute a destruction of evidence, since the action had been finally terminated. There is no testimony tending to show that any evidence as such was destroyed by any one or that there was an agreement to that effect. It does appear, however, that the original complaint and the copy served in the action brought against the respondent by the Victor Heating Company was destroyed. This complaint evidently was founded upon a cause of action for money had and received, with an additional allegation charging the respondent with failure of performance on his part.

After the commencement of the action the respondent made overtures of settlement offering various amounts. Connolly refused to accept less than the face of the claim and it was finally agreed to settle for that amount, without interest or costs.

Throughout the entire controversy, the testimony shows the respondent insisted that the claim had no legal foundation and Cruikshank testified that the respondent designated the demand as "blackmail." It appears that the respondent would not pay any sum of money under the charge alleged in the complaint. The attorney for Connolly stated that his client regarded the transaction as a loan and thereupon drew an amended complaint, demanding a recovery for money loaned and advanced to the respondent.

It was charged that it was improper to have connived at or assisted in the drawing of the amended complaint, which was untrue because all of the parties to the transaction knew that the money had not been loaned by the company to the respondent. We are satisfied from an examination of the authorities that a state of facts such as this may be properly pleaded under one or more forms of pleading. The plaintiff could treat the facts under either theory, for money had and received or for money loaned; and if its officers and attorney saw fit to so modify the original cause of action, and the respondent insisted that the same should be so modified before the payment of the money, we see nothing wrong in the transaction and the amendment of the complaint was in no respect improper.

The respondent testified that the settlement was made by him for the purpose of avoiding publicity. The respondent should

have resisted Connolly's demand and it was a mistake to have yielded.

We find no proof of the agreement of the respondent to destroy the books, accounts or records belonging or appertaining to the business of the Victor Heating Company, and that the amended complaint cannot, in view of the right of the plaintiff to elect, be considered as a false pleading.

The third and fourth specifications of the statement of the cause alleged are clearly connected and may be considered together. They are as follows:

> "3. That in or about the month of April, 1911, at the city of New York, said respondent agreed with John A. Connolly to obtain for said Connolly an appointment to public office or to a clerkship, or other subordinate position in a public office, in consideration of a promissory note of said Connolly in favor of the respondent payable to respondent's order for the sum of $4,000.
>
> "4. That in or about the month of April, 1911, at the city of New York and in connection with said note for $4,000 mentioned above, said respondent agreed with said John A. Connolly to have the said Connolly make a false affidavit to the effect that there were no defenses to said note and no counterclaim or offsets against the same."

As to these charges, it is sufficient to say that there is no evidence in the case, even from Connolly himself, to justify a finding that the note of $4,000 was given in consideration of an agreement by the respondent to secure for Connolly an appointment to public office or employment. It appears from the testimony that Connolly was financially irresponsible and the note and affidavit of estoppel were given as an admission of indebtedness by Connolly. This view is strengthened by the testimony in respect to the meeting between the respondent and Mr. Warren in May, 1913.

From a consideration of the facts in evidence it appears that the note for $4,000 was legally enforcible, and that the estoppel affidavit contained no false statement.

The remaining specification, the fifth, charges the respondent

with making and issuing to the press a statement in regard to matters alleged in the preceding specifications, which was untrue and misleading. The respondent testified to substantially the matters contained in this statement. Our action in not sustaining the truth of those other specifications dispenses with the necessity of determining this charge, but we find that the statement referred to was not false or misleading.

CONCLUSION AND RECOMMENDATION.

Your committee, therefore, concludes that none of the causes alleged for the removal of the respondent has been proved, that a case for legislative action against the respondent has not been made out, and we therefore recommend that this proceeding be dismissed and that no further action be taken by the legislature thereon.

JOHN F. MURTAUGH,
Chairman Joint Judiciary Committee,

WILLIAM B. CARSWELL,
JAMES D. McCLELLAND,
HENRY W. POLLOCK,
ANTHONY J. GRIFFIN,
HERMAN H. TORBORG,
GEORGE A. BLAUVELT,
JAMES A. FOLEY,
HENRY P. VELTE,
HERBERT P. COATS,
ROBERT F. WAGNER,
AARON J. LEVY,
MARK GOLDBERG,
PETER P. McELLIGOTT,
EDWARD WEIL,
LOUIS A. CUVILLIER,
PATRICK J. McMAHON,
CHARLES D. DONOHUE,
LOUIS D. GIBBS,
MORTIMER C. O'BRIEN,
CYRUS W. PHILLIPS,
MICHAEL SCHAAP.

On the motion to adopt the report, Messrs. John L. Sullivan and Charles J. Vert voted in the negative.

It was then moved that it is the sense of the Committee that Daniel F. Cohalan shall not be removed from the office of Justice of the Supreme Court.

The motion was carried unanimously, Mr. Sullivan present, but not voting.

IN SENATE,

ALBANY, *July* 17, 1913.

The President put the question whether the Senate would agree to said report, and it was decided in the affirmative, as follows:

FOR THE AFFIRMATIVE.

Blauvelt	Duhamel	McClelland	Pollock	Sullivan	
Boylan	Foley	McKnight	Ramsperger	Torborg	
Brown	Frawley	Malone	Salant	Wagner	
Carroll	Healy	Murtaugh	Sanner	Wende	
Carswell	Heffernan	Patten	Seeley	Wheeler	
Coats	Herrick	Peckham	Stivers	White	31
Cullen					

FOR THE NEGATIVE.

Argetsinger	Hewitt	Sage	Whitney	Wilson	
Heacock	Palmer	Thompson			8

IN ASSEMBLY,

ALBANY, *July* 17, 1913.

Mr. Levy, from the joint Committee on the Judiciary, to which was referred certain charges brought against Justice Daniel F. Cohalan of the Supreme Court, presented the following report.

(See appendix No. 26.)

Mr. Speaker stated the question to be upon agreeing to the report of said committee.

Debate was had thereon.

Mr. Levy moved the previous question.

Mr. Speaker put the question "Shall the main question be now put?" and it was determined in the affirmative.

Mr. Speaker put the question whether the House would agree to said report and it was determined in the affirmative, a majority of all the members elected to the Assembly voting in favor thereof, and three-fifths being present.

Those who voted in the affirmative were:

Baumes	Eisner	Jones	McCue	Seelye G T	
Birnkrant	Emden	Jude	McDaniels	Silverstein	
Bovie	Esquirol	Kane	McElligott	Small	
Brereton	Evans	Kelly J A	McGrath	Smith J A	
Burden	Fallon	Kelly J D	McKee	Smith M	
Burr	Farrell	Kelly J J	McKeon	Sufrin	
Butts	Finnigan	Kelly P J	McMahon	Sutphin	
Campbell	Fitzgerald	Kenney	Norton	Sweet	
Carroll	Garvey	Kerrigan	O'Brien	Taylor F J	
Carver	Geoghan	Kiernan	O'Connor	Taylor T D	
Caughlan	Geyer	Knott	Oxford	Telford	
Cole	Gibbs	Kornobis	Pappert	Tudor	
Cotillo	Gillen	Lane	Patrie	Ulrich	
Cronin	Goldberg	Larrimer	Phillips	Van Woert	
Cuvillier	Grace	Levy	Prime	Walker	
Daley	Greenberg A	Lewis	Pullman	Ward	
Dennen	Grimme	Macdonald	Robinson	Weil	
Denney	Gurnett	Machold	Rozan	Willmott	
Donohue	Hamilton	Madden	Schaap	Wood	
Dorst	Hammer	Malone	Schifferdecker	Yale	
Doty	Hover	Maloney	Schwarz	Yeomans	
Dox	Hughes	McCollum	Seely J L	Speaker	
Edwards	Jackson				112

Those who voted in the negative were:

Adler	Bryant	Hopkins	Richardson	Tallett	
Allen	Fuller	Horton	Shepardson	Vert	
Baxter	Gallup	Knight	Sullivan	Webb	
Bradley	Hinman	Pembleton			18

Mr. Levy offered for the consideration of the House a resolution in the words following:

Resolved (if the Senate concur), that the charges preferred by

the Association of the Bar of the City of New York and John A. Connolly against Daniel F. Cohalan, a Justice of the Supreme Court for the First Judicial District, heretofore served upon him, consisting of a statement of the causes alleged for the removal of the said Daniel F. Cohalan, signed by the Association of the Bar of the City of New York, through its attorneys, and based upon a certain report of the Committee on Grievances of the said Association, dated June 24, 1913, which was transmitted to the Legislature with a message of the Governor on the 25th day of June, 1913, be and the same hereby are dismissed; and be it further

Resolved, That no case for the removal of said Justice from office has been established and that no further action be taken herein by the Legislature.

Mr. Speaker put the question whether the House would agree to said resolution and it was determined in the affirmative, a majority of all the members elected to the Assembly voting in favor thereof, three-fifths being present.

Those who voted in the affirmative were:

Baumes	Edwards	Hughes	McCollum	Seelye G T
Baxter	Eisner	Jackson	McCue	Silverstein
Birnkrant	Emden	Jones	McDaniels	Small
Bovie	Esquirol	Jude	McElligott	Smith J A
Bradley	Evans	Lane	McGrath	Smith M
Brereton	Fallon	Kelly J A	McKee	Sufrin
Burden	Farrell	Kelly J D	McKeon	Sutphin
Burr	Finnigan	Kelly J J	McMahon	Sweet
Butts	Fitzgerald	Kelly P J	Norton	Taylor F J
Campbell	Gallup	Kenney	O'Brien	Taylor T D
Carroll	Garvey	Kerrigan	O'Connor	Telford
Carver	Geoghan	Kiernan	Oxford	Tudor
Caughlan	Geyer	Knott	Pappert	Ulrich
Cole	Gibbs	Kornobis	Patrie	Van Woert
Cotillo	Gillen	Lane	Phillips	Vert
Cronin	Goldberg	Larrimer	Prime	Walker
Cuvillier	Grace	Levy	Pullman	Ward
Daley	Greenberg A	Lewis	Robinson	Weil
Dennen	Grimme	Ma donald	Rozan	Willmott
Denney	Gurnett	Machold	Schaap	Wood
Donohue	Hamilton	Madden	Schifferdecker	Yale
Dorst	Hammer	Malone	Schwarz	Yeomans
Doty	Hover	Maloney	Seely J L	Speaker
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Those who voted in the negative were:

Adler	Fuller	Hopkins	Pembleton	Sullivan	
Allen	Gage	Horton	Richardson	Tallett	
Bryant	Hinman	Knight	Shepardson	Webb	15

Ordered, That the clerk deliver said resolution to the Senate and request their concurrence therein.

IN SENATE,

ALBANY, *July* 17, 1913.

The President put the question whether the Senate would concur in the above resolution and it was decided in the affirmative, as follows:

FOR THE AFFIRMATIVE.

Blauvelt	Duhamel	McClelland	Ramsperger	Sullivan	
Boylan	Foley	McKnight	Sage	Torborg	
Brown	Frawley	Malone	Sanner	Wagner	
Carroll	Healy	Murtaugh	Seeley	Wende	
Carswell	Heffernan	Patten	Sampson	Wheeler	
Coats	Herrick	Peckham	Stivers	White	
Cullen	Hewitt	Pollock			33

FOR THE NEGATIVE.

Argetsinger	Heacock	Whitney	Wilson	4

IN SENATE,

ALBANY, *July* 17, 1913.

In the Matter of the Investigation Demanded by Honorable DANIEL F. COHALAN, a Justice of the Supreme Court of the State of New York in and for the First Judicial District.

IT IS HEREBY STIPULATED that the following corrections be made in the record of the above entitled proceeding:

That the word "secretary" after the name Einar Chrystie, on page 33 of the printed record, eighteenth line, be changed to "as counsel in behalf".

That the words "secretary of" after the name Einar Chrystie, on page 37 of the printed record, sixteenth line, be changed to "as counsel for".

That the word "certainly" on page 39 of the printed record, twenty-ninth line, be changed to "certain".

That the word "your" on page 40 of the printed record, twenty-first line, be changed to "yours".

That the words "whether as to" on page 73 of the printed record, twenty-third line, be omitted.

That after the words "books are" on page 87 of the printed record, twenty-eighth line, the words "the basis for" be inserted.

That the word "rate" on page 94 of the printed record, twenty-ninth line, be changed to "weight".

That the word "office" on page 95 of the printed record, twenty-fifth line, be changed to "offices".

That the amount "$580" on page 101 of the printed record, twelfth line, be changed to "$55.57".

That the word "him" on page 102 of the printed record, fourth line, be changed to "you".

That the amount "$100" on page 110 of the printed record, second line, be changed to "$1000".

That the word "Kellogg" on page 122 of the printed record, nineteenth line, be changed to "Stanchfield".

That the word "seen" on page 126 of the printed record, seventh line, be changed to "see".

That the word "they" on page 126 of the printed record, twenty-fifth line, be changed to "then".

That the word "he" on page 131 of the printed record, thirtieth line, be changed to "I".

That the word "certification" on page 139 of the printed record, thirteenth line, be changed to "verification".

That the word "certification" on page 139 of the printed record, fourteenth line, be changed to "verification".

That the words "secretary of" after the name Einar Chrystie on page 143 of the printed record, sixteenth line, be changed to "counsel for".

That after the words "Yes, sir" on page 156 of the printed record, thirty-first line, the letter "Q.", indicating a question, be inserted.

That after the word "Company" on page 156 of the printed record, thirty-third line, the letter "A.", indicating answer, be inserted.

That the word "Temple" on page 172 of the printed record, seventeenth line, be changed to "Emmett".

That the words "Q. I don't suppose" on page 175 of the printed record, first line, be omitted.

That the word "whom" on page 182 of the printed record, thirty-sixth line, be changed to "who".

That the word "ask" on page 212 of the printed record, third line, be changed to "asked".

That the word "ask" on page 212 of the printed record, sixth line, be changed to "asked".

That the word "ask" on page 212 of the printed record, eleventh line, be changed to "asked".

That the word "broken" on page 238 of the printed record, third line, be changed to "broke".

That the words "I didn't know" on page 290 of the printed record, eighteenth line, be changed to "I didn't care to".

That the word "provision" on page 292 of the printed record, sixth line, be changed to "contribution".

That the word "become" on page 297 of the printed record, twenty-sixth line, be changed to "becomes".

That the word "require" on page 298 of the printed record, third line, be changed to "requires".

That before the word "is" on page 299 of the printed record, twenty-third line, the word "It" should be inserted.

That the word "defendants" on page 378 of the printed record, eighteenth line, be changed to "defendant".

That the words "The Chairman" be inserted at the beginning of the nineteenth line on page 382 of the printed record.

That the word "is" preceding the words "was done" on page 385 of the printed record, twenty-second line, be changed to "it".

That the word "offer" on page 402 of the printed record, twenty-seventh line, be changed to "offered".

That after the words "But it was perfectly possible it happened, isn't it?" on page 404 of the printed record, fourth line, the letter "A.", indicating answer, and "Yes" be inserted.

That the word "ethics" on page 436 of the printed record, last line, be changed to "evidence".

That the word "sure" on page 457 of the printed record, sixth line, be omitted.

That after the word "but" on page 459 of the printed record, eleventh line, the word "you" be inserted.

That the words "The influence that you had then, Judge Cohalan" on page 459 of the printed record, sixteenth line, be omitted.

That the word "that", preceding the words "I urge" on page 460 of the printed record, twenty-fourth line, be changed to "and".

That after the word "Cohalan" on page 460 of the printed record, twenty-eighth line, "as" be inserted.

That before the words "Q. You don't mean the statements in the letter, etc." on page 462 of the printed record, thirty-first line, the words "Respondent's Counsel" be inserted.

That before the word "was" on page 463 of the printed record, twentieth line, the word "I" be inserted.

That the word "there" on page 464 of the printed record, twenty-sixth line, be changed to "then".

That the word "what" on page 465 of the printed record, twenty-seventh line, be changed to "when".

That after the word "perform" on page 465 of the printed record, thirty-sixth line, the word "which" be inserted.

That the words "upon his own statement, repudiated those allegations" on page 467 of the printed record, eighteenth line, be quoted.

That after the word "I" on page 471 of the printed record, third line, the word "am" should be inserted.

That the word "in" on page 477 of the printed record, twenty-ninth line, be changed to "is".

That the words "water, gas and supply" on page 478 of the printed record, nine lines from the bottom, be changed to "water supply, gas and electricity".

That after the word "wanted" on page 479 of the printed record, eighth line, the word "me" be inserted.

That on page 479 of the printed record, ninth line, the word "charges" be changed to "charge"; the word "is" be inserted before "made" and the word "that" be inserted after "made".

That the word "witnesses" on page 493 of the printed record, second line, be changed to "representatives".

That the words "for the profession" on page 497 of the printed record, twelve lines from the bottom, be changed to "for the bench".

That the word "is" on page 491 of the printed record, fifteenth line, be changed to "as".

That the word "lay" on page 492 of the printed record, last line, be changed to "lie".

That the word "representative" on page 493 of the printed record, first line, be changed to "representatives".

That the word "like" on page 493 of the printed record, six lines from the bottom, be changed to "life."

That the word "in" on page 498 of the printed record, thirty-seventh line, be changed to "of".

That the word "the" on page 499 of the printed record, fifth line, be changed to "any"; and the word "conclusion" in the same line be changed to "conclusions".

That after the word "term" on page 499 of the printed record, fifteenth line, the word "the" be inserted.

That the words "that this incident" on page 499 of the printed record, twenty-second line, be omitted.

That the word "one" on page 500 of the printed record, fifth line, be changed to "a".

That the word "but" on page 500 of the printed record, tenth line, be changed to "and".

That after the word "it" on page 500 of the printed record, eleventh line, the words "is the clause" be inserted.

That the word "in" on page 501 of the printed record, eighteenth line, be changed to "although".

That the word "that" on page 501 of the printed record, beginning of the nineteenth line, be omitted.

That the word "to" on page 501 of the printed record, twentieth line, be omitted.

That the words "this too" on page 501 of the printed record, twentieth line, be changed to "told him".

That the word "was" on page 501 of the printed record, twenty-fifth line, be changed to "are".

That the word "a" on page 502 of the printed record, second line, be changed to "the".

That the word "form" on page 504 of the printed record, third line, be changed to "forum".

That the word "done" on page 504 of the printed record, thirty-first line, be changed to "do".

That the word "be" on page 504 of the printed record, thirty-third line, be changed to "have been".

That the word "laid" on page 505 of the printed record, twenty-seventh line, be changed to "lain".

That the word "laid" on page 505 of the printed record, thirty-third line, be changed to "lain."

That after the word "Connolly" on page 507 of the printed record, third line, a dash be inserted; change the capital "A" in "any" to a small "a".

That the word "of" on page 507 of the printed record, sixteenth line, be changed to "with".

That the word "Donnolly" on page 507 of the printed record, thirty-fourth line, be changed to "Connolly".

That the word "it" on page 508 of the printed record, first line, be omitted.

That before the word "submit" on page 494 of the printed record, six lines from the bottom, the word "I" be inserted.

That after the word "deal" on page 495 of the printed record, nine lines from the bottom, the word "more" be inserted.

That after the word "Cohalan" on page 497 of the printed record, thirteen lines from the bottom, the word "to" be inserted.

That the word "on" on page 463 of the printed record, fourth line, be changed to "of".

NEW YORK, *July* 15, 1913.

EINAR CHRYSTIE,
For the Association of the Bar of the City of New York.

ISIDOR J. KRESEL,
For Respondent.

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STATE OF NEW YORK

REPORT

OF THE

JOINT LEGISLATIVE INVESTIGATING COMMITTEE

Submitted August 11, 1913

To the Senate and Assembly of the State of New York in Extraordinary Session Assembled:

The joint Legislative Investigating Committee heretofore appointed with power, among other things, to investigate into, ascertain and report at this extraordinary session upon all expenditures made by any candidate voted for at the last preceding election by the electors of the whole State, and upon all statements made by and on behalf of any such candidate for moneys or things of value received or paid out in aid of his election and their compliance with the present requirements of law relative thereto, does hereby report as follows:

That this Committee has held public hearings, taken sworn testimony and investigated generally the specific matters above referred to; and this Committee is of the opinion that said hearings and the evidence given thereat have disclosed such unlawful conduct by one candidate at the last general election as to warrant and require an immediate and separate report in respect thereto, in order that the Legislature may take such action thereon at this extraordinary session as the public interest and welfare demand.

William Sulzer, a candidate for Governor at the last preceding election and now Governor of this State, in accordance with the

requirements of the so-called Corrupt Practices Article of the Election Law and the statutes in relation to campaign contributions and expenses, filed on November 13, 1912, a statement under oath setting forth in effect that all the money received by him in aid of his election, directly or indirectly, as candidate of the Democratic party for the office of Governor of the State of New York in connection with the general election held in the State of New York on the 5th day of November, 1912, was the sum of $5,460 and no more. The following is the oath made and filed with the Secretary of State by William Sulzer:

STATE OF NEW YORK,
CITY AND COUNTY OF NEW YORK, } *ss.:*

Wm. Sulzer being duly sworn says that he is the person who signed the foregoing statement that said statement is in all respects true and that the same is a full and detailed statement of all moneys received contributed or expended by him directly or indirectly by himself or through any other person in aid if his election.

WM. SULZER.

Sworn to before me this 13th
day of November, 1912.

ALFRED J. WOLFF,
Commissioner of Deeds, No. 72, New York City.

A preliminary investigation of certain of the 68 contributions aggregating said amount of $5,460 and set forth in said statement, disclosed that the checks for some of these conceded contributions were first endorsed in the name of William Sulzer and thereafter were endorsed by one L. A. Sarecky for deposit in the Mutual Alliance Trust Company at 35 Wall street, New York city. There was also produced before the Committee at its first hearing on this subject a check for $2,500 for Jacob H. Schiff's campaign contribution to William Sulzer, signed Kuhn, Loeb & Company, to the order of said Sarecky, likewise deposited by said Sarecky in said account in the Mutual Alliance Trust Company.

With these facts and this evidence before it, this Committee, on July 30, 1913, called the said Sarecky to the witness stand, who, after being duly sworn, admitted that for years he had acted as confidential secretary to William Sulzer, but refused to answer

any questions relative to the campaign statement of William Sulzer, or to any campaign contributions, or to deposits in the Mutual Alliance Trust Company; and it is and was the opinion of your Committee from the answers of said witness and his demeanor on the stand that his refusal to testify was at the instance and direction of Governor Sulzer.

It further appeared at the said first hearing on this subject that a campaign contribution of $500 in aid of the campaign of William Sulzer from Abram I. Elkus, represented by his check to the order of William Sulzer, had been received and personally endorsed by the said Sulzer and deposited to his personal account in the Farmers' Loan & Trust Company, in which company the said Sarecky admitted that William Sulzer had for a long time had an account. At a subsequent hearing it appeared that the deposit slip accompanying said check when deposited in the Farmers' Loan & Trust Company was also in the handwriting of William Sulzer. Neither the Schiff contribution nor the Elkus contribution was included in the sworn statement of William Sulzer dated and verified November 13, 1912.

Upon these facts the Committee proceeded to have a further hearing in the city of New York at which time there was produced a true transcript of the account of said Sarecky in the Mutual Alliance Trust Company, and a true transcript of the account of said Sulzer in the Farmers Loan & Trust Company according to the original books of account of the said trust companies.

By the transcript of the Mutual Alliance Trust Company it was proven that the total amounts deposited during the period of the campaign in the account of L. A. Sarecky and evidently for campaign purposes, instead of being $5,460 was $12,405.93; and William Sulzer not only knew that Sarecky's account contained his campaign contributions, or some of them, but he authorized their deposit therein as is shown by a letter signed by said Sulzer, dated October 22, 1912, and addressed to the Mutual Alliance Trust Company as follows:

"Mutual Alliance Trust Company.

October 22, 1912.

Gentlemen.— This is to inform you that I have authorized my private secretary, Mr. L. A. Sarecky, to indorse my name to any checks donated to my campaign fund and to deposit same to his credit.

Very truly yours,

WILLIAM SULZER."

The original deposit slips with the Mutual Alliance Trust Company for said period were also produced before your Committee and instead of showing that contributions had been received from 68 persons aggregating in amount $5,640, the fact was that there had been deposited 94 checks from various contributors, together with a sum in cash or currency of between $1,500 and $2,000.

At this same hearing there was also produced before your Committee a personal check for campaign contribution by William F. McCombs, then Chairman of the Democratic National Committee, for $500 to the order of William Sulzer, thereafter deposited by Sarecky in the Mutual Alliance Trust Company and not reported by William Sulzer in his statement sworn to November 13, 1912.

There was further produced at said hearing in New York city a check by Henry Morganthau, then Chairman of the Finance Committee of the Democratic National Committee, for $1,000 to the order of William Sulzer, which check was endorsed personally by William Sulzer and although a campaign contribution, was deposited by him, accompanied by a deposit slip in his own handwriting, in his personal account in the Farmers Loan and Trust Company.

Thereafter there was produced a full transcript of the Farmers Loan and Trust Company's account of William Sulzer from September 1, 1912, to January 1, 1913, with the original deposit slips, from which it appeared that the amount of deposits between said dates to the account of William Sulzer was $24,395.31; that on October 8th and 10th, when William Sulzer was in New York city, he deposited in checks and currency in said account the sum of $7,900, of which amount the said Morganthau $1,000 check was a part; that on October 12, 1912, during the campaign, William Sulzer further deposited currency amounting to $2,500 and a check for $1,000; and further on December 16, 18, and 28, 1912, he deposited $5,100 in currency — All in said Farmers Loan and Trust Company.

Your Committee further reports that having received authentic information that William Sulzer had used campaign funds for the purpose of buying securities or speculating on margins in Wall street, some of them being carried on in the name of Frederick L. Colwell, a personal friend, as a dummy for Sulzer, it attempted to have produced the books of account of two brokerage firms in New York city, namely: Messrs. Harris & Fuller and Fuller & Gray; and also subpoenaed the said Frederick L. Colwell to testify.

That thereupon at first the firm of Harris & Fuller, or the members thereof, refused to produce their accounts with William Sulzer, and Melville B. Fuller, of said firm, refused to answer any questions as to said account, and in like manner Frederick L. Colwell refused to answer questions as to any account of stock transactions relative to or connected with William Sulzer. It further appeared from the answers of said witnesses, their demeanor on the witness stand and from authentic information in the possession of the Committee, that they so refused to answer questions at the instance and request of Governor Sulzer and that Fuller had had an interview with Governor Sulzer in Albany after being served with the subpoena, at which interview it was demanded by Governor Sulzer and agreed that said Fuller should refuse to give any information respecting said account.

That thereafter the said Fuller was threatened with punishment for contempt by the Legislature, and finally appeared at a subsequent hearing, and produced a transcript of the account of William Sulzer, which account, for the purposes of keeping its existence secret from other customers of the firm was known, numbered and designated as account 63. This account shows that William Sulzer was carrying on margin in the said office of said brokers:

500 shares of C. C. C. & St. L. (Big Four) stock,
200 shares of American Smelters and
100 shares of Southern Pacific.

And that on January 1, 1912, while the said Sulzer was Chairman of the Foreign Affairs Committee in the House of Representatives, and a Member of said House he owed the firm of Harris & Fuller $48,599.38 on said speculative account. It further appears that after his election as Governor the said Sulzer paid by deposits of cash or checks on his debt to said Harris & Fuller the sum of $21,000, and we call attention to the fact that within two weeks after his election, on November 18, 1912, he paid them in currency $10,000, and on December 16, 1912, he paid them in currency $6,000, although none of these sums were drawn from the Farmers Loan & Trust Company. That in the month of June, 1913, Governor Sulzer was being continually requested by Harris & Fuller to make payment on account of his margins, which had become very weak and he was notified either to pay or take up the account and transfer it to some one else, with the result that

on July 15, 1913, Lieutenant-Commander Louis M. Josephthal paid for the said Sulzer the amount then remaining due of $26,739.21. That said Josephthal is a member of Governor Sulzer's military staff, being the only member of Governor Dix's staff who was retained by Sulzer.

There was further produced before your Committee under subpoena a certain account of Frederick L. Colwell, the friend and dummy of William Sulzer above referred to, with the firm of Boyer, Griswold & Company, brokers of New York City, wherefrom it appeared that on the 16th day of October, 1912, during the campaign, the said Colwell bought outright 200 shares of C. C. C. & St. L. stock, commonly known as Big Four, for the sum of $12,025, and that said Colwell paid for said stock on that day with the following funds:

Check of William Sulzer	$900 00
Check of Theodore W. Meyers	1,000 00
Check of John Lynn	500 00
Check of Lyman A. Spalding	100 00
Check of Edward F. O'Dwyer	100 00
Check of John W. Cox	300 00
Check of The Frank V. Strauss Company	1,000 00
Check of John T. Dooling	1,000 00
Currency	7,125 00
	$12,025 00

The evidence further showed that the check of William Sulzer for $900 was drawn on the Farmers' Loan & Trust Company account above referred to, and no one can doubt but that all of these checks were for campaign contributions, especially as Spalding testified that his check was given for that specific purpose, and that it went in with other checks contributed for campaign purposes by members of the Manhattan Club.

The Committee had produced before it another account for the purchase of 200 shares of Big Four stock from the firm of Fuller & Gray, paid for by $11,825.00 in currency between the 21st and 31st days of October, 1912, during the campaign, this account being known as number 500, for the purpose of concealing the fact that the account belonged to William Sulzer; and this stock was delivered by devious ways to the dummy, Colwell, who met

the messenger by appointment at the Nassau National Bank, in New York City.

This same Colwell, when again subpoenaed for another hearing, after having refused to testify as above stated, failed to appear when his name was called, and is now in contempt of the Legislature as is also the former confidential secretary of William Sulzer, Louis A. Sarecky.

The foregoing is a summary of the salient facts and evidence in relation to campaign contributions and the conversion thereof; and one of the most significant features of this evidence, aside from and in addition to the large checks received for campaign purposes and not accounted for in the sworn statement, is the large amount of currency which William Sulzer had and used, in the purchase or protection of stocks during the three months between the day that he was nominated and day he took office as Governor, namely:

October 16, 1912, for the purchase of Big Four stock	$7,125 in currency.
October 21 to 31, 1912, for the purchase of Big Four stock	11,825 in currency.
October 8, 1912, deposited in the Farmers Loan & Trust Co	1,400 in currency.
October 12, 1912, deposited in the Farmers Loan & Trust Co	2,500 in currency.
December 16, 1912, deposited in the Farmers Loan & Trust Co	1,100 in currency.
December 18, 1912, deposited in the Farmers Loan & Trust Co	1,000 in currency.
December 28, 1912, deposited in the Farmers Loan & Trust Co	3,000 in currency.
November 18, 1912, deposited with Harris & Fuller	10,000 in currency.
December 16, 1912, deposited with Harris & Fuller	6,000 in currency.
Total currency between nomination and inauguration	$43,950 in currency.

Your Committee leaves to the Legislature the inference to be drawn from the possession and use of this currency.

During the time of these hearings and investigations William Sulzer, as Governor, has done everything in his power to withhold the truth and obstruct the production of evidence and the course of justice. At his instance and direction both Sarecky, his secretary, Colwell, his dummy, and Harris & Fuller, his brokers, have refused to testify before the Committee. His influence in the promotion of Sarecky to an important and lucrative position in the State Hospital Commission as Deportation Agent — substituting an inexperienced young stenographer for an experienced physician in that position — could only be a reward for Sarecky's silence in protecting the Governor from damaging disclosures.

Governor Sulzer made a false public statement, when on July 30, 1913, he said that he was away campaigning and that he did not know of the campaign contributions omitted from his sworn statement. The Elkus check was endorsed by Sulzer personally and he acknowledged the letter of Elkus transmitting it as a campaign contribution.

We submit to the Legislature that it was false when William Sulzer swore that he had received only $5,460 of campaign contributions and that he did so with full knowledge that he had received an amount many times that sum and had converted the same to his private uses; that he used contributions given to aid in his election for the purchase of stocks in Wall Street which he or his agents still hold; that he has been engaged in stock market speculations at the time that he, as Governor, was earnestly pressing legislation against the New York Stock Exchange which would effect the business and prices of the Exchange; and that there was evidence before this Committee to sustain a finding that as Governor he has punished legislators who opposed him by vetoing legislation enacted for the public welfare, and has traded executive approval of bills for support of his direct primary and other measures.

We submit to the Senate and Assembly that the facts above stated are sufficiently serious in character and are so violative of the laws of this State and the rules of fitness for and conduct in high office, that the public interests demand some action in reference thereto whether through the exercise of powers of the Legislature, or by referring the facts and evidence to other duly constituted officers charged with duties in respect thereof.

There is in the possession of this Committee further authentic information of other similar evidence in respect to the subject of

this report, as strong in quality and in the large amounts involved as that on which sworn testimony has already been given.

This Committee, therefore, has not completed its investigation either on this subject or others covered by the resolutions under which it is acting, but it has felt that the revelations set forth in this report and the testimony accompanying it should be brought to the attention of the Legislature at once without awaiting a final report either on this or other subjects.

The questions here involved are vital to clean government. They are above party or partisanship. They are vital to the citizens of the state and call for prompt and well-considered action. They call for an answer from Governor Sulzer, because both his obstructive tactics and his silence warrants the conclusion that the charges can neither be answered nor explained.

We recommend the punishment for contempt of Louis A. Sarecky and Frederick L. Colwell hereinbefore referred to: and we transmit herewith the record of the hearings with the testimony and exhibits.

Albany, N. Y., August 11, 1913.

Respectfully submitted by order of the committee,

THE JOINT LEGISLATIVE INVESTIGATING COMMITTEE,

JAMES J. FRAWLEY,
Chairman.

EUGENE LAMB RICHARDS,
Counsel.

MATTHEW T. HORGAN,
Secretary.

PROCEEDINGS

THE CAPITOL, ALBANY, N. Y.,

WEDNESDAY, *July* 30, 1913.

Pursuant to the call of the chairman of the committee, the committee met at 10.30 o'clock A. M.

Present:

For the Senate:
Hon. James J. Frawley, Chairman,
Hon. Felix J. Sanner.

For the Assembly:
Hon. Laverne P. Butts,
Hon. Myron Smith.

Appearances:
Eugene Lamb Richards, Esq., Counsel for the Committee.
Matthew T. Horgan, Esq., Secretary to the Committee.

The Chairman.— Whenever you are ready, Mr. Richards.

Mr. Richards.— Now, Mr. Chairman, we are ready to begin, if you are.

The Chairman.— Proceed.

Mr. Richards.— Is the gentleman from the Senate clerk's office here?

Mr. McArdle.— Yes.

Mr. Richards.— Take the stand, please.

Cornelius McArdle, a witness called by the Committee, having been first duly sworn by the Chairman of the Committee, testified as follows:

The Chairman.— You are connected with the Clerk of the Senate, and what is your full name, please?

The Witness.— Cornelius McArdle.

Examination by Mr. Richards:

Q. You are connected with the Clerk of the Senate of the State of New York? A. Yes, sir.

Q. Pursuant to subpoena, have you produced a message, the original message from the Governor at the extraordinary session, and also a bill introduced at the request of the Governor by Senator McKnight? A. Yes, sir.

(Witness produces papers referred to.)

Q. Are those the documents, the two documents, that you produced, the originals? A. Yes, sir.

Mr. Richards.— I offer those in evidence.

The bill was received in evidence and marked Exhibit No. 30, of this date. The said exhibit reads as follows:

"An act to amend the Penal Law, in relation to limitation of amounts to be expended by candidates for nomination or election.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section seven hundred and eighty-one of chapter eight-eight of the laws of nineteen hundred and nine, entitled "An act providing for the punishment of crime, constituting chapter forty of the consolidated laws," is hereby amended to read as follows:

§ 781. Limitation of amounts to be expended by candidates for nomination or election. 1. The total amount expended by a candidate for a party nomination to public office at a primary election, including the expense of obtaining signatures to a designation petition, for any purpose tending in any way, directly or indirectly, to promote or aid in seeking such nomination, shall not exceed the following amounts:

For nomination for governor or United States senator, five thousand dollars; for nomination for any other elective state office, other than a judicial office, three thousand dollars; for nomination for the office of representative in congress, two thousand dollars; for nomination for the office of state senator, one thousand dollars; for nomination for the office of member of assembly, five hundred dollars; for nomination for any other public office one-half of the annual salary of such office, if the same be salaried, and otherwise an amount

equal to two dollars for each one hundred or major fraction thereof of the total number of votes cast in the political subdivision for all candidates for the office of governor at the last preceding state election.

2. The total amount expended by a candidate for independent nomination by certificate under the provisions of the election law for any purpose tending in any way, directly or indirectly, to promote or aid in seeking such independent nomination, shall not exceed one-half of the amounts herein prescribed for a party candidate seeking the nomination at a primary election.

3. The total amount expended by a candidate for election to a public office, including any expense incurred in securing a party or independent nomination to such office for any purpose tending in any way, directly or indirectly, to promote or aid in seeking such election, shall not exceed twice the amount prescribed by subdivision one hereof for such office.

4. The total amount expended by a candidate for election to a party position at an official primary, for any purpose tending in any way, directly or indirectly, to promote or aid in seeking such election, shall not exceed the following amounts:

For election as a member of the state committee, five hundred dollars; for election as a member of the county committee, fifty dollars; for election as a delegate or alternate at large to a national party convention, three thousand dollars; for election as delegate or alternate from a congressional district to a national party convention, one thousand dollars.

5. The total amount expended by a candidate for presidential elector, for any purpose tending in any way, directly or indirectly, to promote or aid in seeking his election, shall not exceed four thousand dollars.

6. Any candidate for nomination or election to public office, or for election to a party position, who shall expend for any purpose an amount in excess of the sum authorized by this section shall be guilty of a felony, (public office, voted for at an election, by the qualified electors of the state or any political subdivision thereof, for any of the purposes specified in section seven hundred and sixty-seven of this chapter, for

contributions to political committees, as that term is defined in section five hundred and forty of the election law, for any purpose tending in any way, directly or indirectly, to promote, or aid in securing his nomination and election shall not exceed the amount specified herein. By a candidate for governor, the sum of ten thousand dollars; by a candidate for any other elective state office, other than a judicial office, the sum of six thousand dollars; by a candidate for the office of representative in congress or presidential elector, the sum of four thousand dollars; by a candidate for the office of state senator, the sum of two thousand dollars; by a candidate for the office of member of assembly, the sum of one thousand dollars; by a candidate for any other public office to be voted for by the qualified electors of a county, city, town or village, or any part thereof, if the total number of votes cast therein for all candidates for the office of governor at the last preceding state election shall be five thousand or less, the sum of five hundred dollars; if the total number of votes cast therein at such last preceding state election be in excess of five thousand, the sum of three dollars for each one hundred votes in excess of such number may be added to the amounts above specified. Any candidate for a public office who shall expend for the purposes above mentioned an amount in excess of the sum herein specified shall be guilty of a misdemeanor.)

Sec. 2. This act shall take effect immediately."

The message of the Governor was received in evidence and marked Exhibit No. 31, of this date. The said exhibit reads as follows:

"State of New York — Executive Chamber

"Albany, *June* 16, 1913.

"*To the Legislature:*

"The Republican Party, in convention, last year, as a part of its platform, adopted the following:

'We favor the short ballot, surrounding primary elections with the same safeguards as regular elections, the direct election of party committees, the direct nomination of party candidates in congressional, senatorial, assembly, county and municipal subdivisions, and the direct election of delegates to State conventions, with the right of party electors to

directly express their preference for nominations for State offices if they so desire.'

The Progressive Party, in convention, last year, as a part of its platform, adopted the following:

'We pledge the enactment of a real direct primary law applicable to every elective office and a Presidential preference primary law.'

The Democratic Party, in convention, last year, as a part of its platform, adopted the following:

'The Democratic Party was the first to recognize the demand for a State-wide direct primary and so declared in the Rochester platform of 1910, and the Democratic Legislature of 1911, despite Republican opposition, enacted the first State-wide direct primary law in the history of the State. We again declare in favor of the principle of the direct primary and we pledge our Legislature to adopt such amendments to the existing laws as will simplify and perfect the direct primary system.'

It must be apparent, to the average man, from a careful reading of these platforms, that the leading political parties, in our State, are irrevocably committed, by the most explicit promises, to the enactment of legislation for direct nominations. As a matter of fact, it seems to me, all the members of the present Legislature are instructed by these pledges, of their respective parties, and are, therefore, in duty bound by the highest political obligations, to vote for a State-wide direct primary measure.

In my message to the Legislature at the beginning of the year I said: 'We are pledged to the principle of direct primaries, State-wide in their scope and character, and I urge the adoption of such amendments as will simplify the procedure, and make complete and more effective the direct primary system of the State.'

As nothing was done, of material moment, in connection with this recommendation, and to carry out in good faith the pledges above mentioned, I again, in the early part of April, in a special message, urged the Legislature, in the interest of the general welfare, to hearken to the insistent demands of the people throughout the State for a direct State-wide primary law. Much to my disappointment, however, the Legislature adjourned without, in this respect, meeting the just expectations of the voters.

So a sense of public obligation made it my duty, in the interest of the common weal, to reconvene the Legislature in extraordinary session, to the end that the recommendations I have made to the Legislature for direct primaries can be considered, without further delay, and a bill passed for direct nominations which will fulfill party pledges. In response to the overwhelming sentiment of the State, I am convinced, we should do this as a matter of duty to our constituents.

The record will show that for years I have been a consistent advocate of direct nominations. I am now, always have been, and always will be in favor of carrying out, in letter and in spirit, the platform pledges of a political party. The best way to strengthen a political party is to keep good faith with the voters.

Hence, in view of all the circumstances, in connection with the struggle in our State for a law to give the voters the right to nominate, it is my candid opinion that the Legislature in this extraordinary session, without unnecessary delay, should give heed to its promises and immediately consider, and, with due deliberation, aid me to write upon our statute books a practicable and a comprehensive Statewide direct primary law that will faithfully carry out our pledges to the people.

Direct nominations will go far to restore to the people the complete control of their State government; and afford the voters of the State the freest expression of their choice of candidates for public office.

The voters believe themselves just as competent to directly nominate all officials as the delegates they select. They want this right to nominate because they have so often found the delegate system was not a faithful agency of their wishes, and that it not infrequently failed to meet the demands, and the expectations of the people.

All the arguments now used against the abolition of the convention, or the delegate system of nominations, have been used in opposition to the direct election of United States Senators, but these arguments have been all in vain against the ever rising tide of popular sovereignty and progressive democracy.

Let us be true to ourselves. Let us not try to deceive the people. The plain fact is, that in our primary reform legislation we, in New York State, have left off our work just where the citizens expected us to begin.

By not making our primary law apply directly to the nomination of State officers we have continued the delegate system in the particular field in which it has proven the most unsatisfactory to the people.

That the voters of our State are determined to have no intermediary between themselves and their public servants has been shown by the adoption of the seventeenth amendment to the Federal Constitution, under which the people have taken from the Legislatures of the States the right to elect Senators in Congress.

There are only two kinds of primaries — direct and indirect. The latter kind constitutes the present reactionary delegates system; the former kind constitute the progressive system which the people of our State now demand. I am for the direct system.

I want the people to nominate their officials because I want the people to rule their government. The people know that the power to nominate is the power to control. That is the reason the voters, regardless of party affiliations, favor direct nominations.

To have direct primaries and to have conventions of delegates is impossible. Direct primaries have been devised by the friends of good government to permit the voters in each political party to nominate their candidates for public office directly without the intermediary of delegates, and as, of course, you cannot have conventions without delegates, it follows, as the night the day, that the convention system must go, and honest direct primaries must come. There is no middle ground. There can be no compromise. Those who want to compromise are against the enrolled voters of their party. You cannot compromise a principle.

It is self-evident to me that if the voters are competent to directly elect all their public officials they are just as competent to directly nominate these same officials. Any assertion to the contrary is an indictment against the intelligence of the electorate of the State.

If it is important for minor officials to be nominated by

the people, it is still more important, it seems to me, that the people be given the power to nominate candidates for United States Senator and for Governor. If selfish interests seek to control public affairs for promotion of their selfish ends, through the manipulation of party conventions, the plain people should seek to do the same thing by taking in their own hands the right to nominate directly every one of these important officials.

The adoption of State-wide direct primaries, and the abolition of delegate conventions is in no sense an abandonment of the principle of representative government, but on the contrary it is a protest against the perversion of representative government.

Under direct primaries the people will govern themselves, through officials the same as now, but through officials directly nominated and elected by themselves. Representative government is only made actual when the power to name candidates is taken away from the few, and placed in the hands of all the enrolled voters of each political party.

The changes which the friends of direct nominations advocate in our primary law are in harmony with the spirit of the times, and will go far, in the opinion of sagacious men, to perpetuate our free institutions.

These salutary changes in our primary system aim to restore to the voters of each political party the rights which have been usurped by the few, for the benefit of powers invisible, which aim to control governmental officials, to pass laws, to prevent the passage of other laws, and to violate laws with impunity. To these invisible powers I am now, always have been, and always will be opposed.

No government can be free which does not allow all of its citizens to participate in the formation as well as the execution of its laws. Every other government is a mere form of despotism. The political history of the centuries clearly illustrates the truth that, under the forms of democratic government, popular control may be destroyed, and corrupt influences, through invisible political power, establish a veritable despotism.

If it is wise to trust the people with the power to nominate some public officials, I am sure it is just as wise to trust them with the power to nominate all public officials. I believe it

is as wise to trust them to nominate a Governor, as to trust them to nominate a constable; and as wise to trust them to nominate a supreme court judge as to trust them to nominate a justice of the peace. The men who trust the average integrity, the men who believe in the average intelligence, of the voter, know not where, consistently, to draw the line as to the officials all should nominate, and the officials the few should nominate. As a believer in popular sovereignty I am opposed to establishing a political dead line regarding this fundamental right of the people to nominate all of their public servants.

The people have been trusted with this power to nominate in many other States, and they have used it to bring about greatly improved conditions. Let the Empire State put itself in line with the foremost States in the Union, by favoring nominations by the people, for thus only can we secure a government of the people and by the people.

As convincing proof of the success and the popularity of State-wide direct primaries in other States, permit me to respectfully submit to the Legislature the following testimony of a few of the most distinguished citizens and public officials in our country.

United States Senator George E. Chamberlain, of Oregon, says:

> The direct primary of Oregon has so far proved satisfactory to our people.

United States Senator Morris Shepherd, of Texas, says:

> Our system of direct primaries in Texas meets with universal approbation.

William Hodges Mann, Governor of Virginia, says:

> Our primary law is applicable to all State offices. Indeed we have been holding a primary for United States Senators for some time, and the Legislature has always elected the man selected by the people. I can say that the primary has worked well in this State.

Frank L. Houx, Secretary of State of Wyoming, says:

> I consider our State-wide direct primary law one of the best laws ever placed upon our statute books. It eliminates " Boss Rule " that has heretofore prevailed in the nominating conventions and gives the people at large a voice in who the candidates shall be.

Governor Cox, of Ohio, says:

> Our primary law applies to all State officers. I would feel that the fundamental principle of popular participation in government would be violated if all the State officers from the Governor down were not selected by popular choice.

United States Senator Gilbert M. Hitchcock, of Nebraska, says:

> Our direct primary system, as far as it relates to the candidates for Senator or Governor, is an unqualified success.

United States Senator Henry F. Hollis, of New Hampshire, says:

> The New Hampshire system of direct primaries certainly meets the expectations of the people. The politicians criticise the plan, but it works well.

United States Senator James E. Martine, of New Jersey, says:

> 'I feel justified in stating that our New Jersey direct primary system meets with the general approval of the public.'

David S. Crater, the Secretary of State of New Jersey, says:

> 'The direct primary law of this State applies to State, county and municipal offices; also to members of Congress. So far as I am able to determine, it seems to be satisfactory in every respect.'

Lee Cruse, the Governor of Oklahoma, says:

> 'Direct primaries are in operation in this State for the nomination of all State, county and municipal officers. It has given better satisfaction than the old convention system and there is no disposition to return to the old way. Oklahoma has been a pioneer in the matter of direct primaries, and has no reason to take backward steps along these lines.'

Governor Oswald West, of Oregon, says:

> 'The direct primary system in this State, obtains from constable to the United States Senator, including municipal officers. As a result of the law Oregon has

abolished the boss and has relegated a political machine to almost forgotten history. It is most satisfactory, and while the law which has been enacted by the people was given an overwhelming majority, I am confident that should the question be again submitted to them, they would endorse the law by even a greater majority that the first. I do not believe that the people of this State would revert to the old system of corrupt political methods under any consideration.'

Elliott W. Major, Governor of Missouri, says:

"Our law requires all candidates for elective offices to be nominated at a State primary. The law has operated well and has given satisfaction, and is the only way to give the people a fair chance to select the men whom they wish to represent them as party nominees. The people elect their public officers at the general election and the people are competent and qualified to elect their nominees, who in turn become their public officers. Of course, the would-be political bosses and certain corporate interests which meddle in politics are opposed to State primaries. It interferes with their manipulations and combinations. They wish to act as the guardians of the people and select their nominees for them. Let the people, by direct vote, select their own candidates. That is pure democracy, and in keeping with the ideals of a republican form of government. I am a strong advocate of the State primary law because it more nearly approaches the real rule of the people. I would rather trust the people than trust the men who, because of their selfish interests, think the people are not capable and should not be permitted to say who they wish for candidates. If you permit such fellows and interests to select your entries for you in the political race, you need not expect much in the end.

'I cannot understand upon what principle any one can oppose the people the exercising of their right to select nominees at a State primary election. Let the people do the selecting, and not a coterie who wish to act for the people. Our State has tried the law and has met the test, and has given entire satisfaction, and no

man in this State in public life would dare for a moment to advocate its repeal.'

Frank J. Donahue, Secretary of State of Massachusetts, says:

'Our law provides that all officers to be voted for at a State election shall be nominated by direct plurality vote in party primaries. This, as you will see, includes the direct nomination of United States Senators. It further provides for the direct election of members of the State committees of the political parties — not less than one from each Senatorial District. The State-wide direct primary law was adopted in 1911, and under it we have had two direct primaries. That its operation is satisfactory is admitted even by those who had vigorously opposed for years the passage of such a law by the Legislature. The fight for State-wide direct primaries in this State extended over several years, but finally so strong did the demand become that in 1911 the House passed the direct primary bill with only fifteen dissenting votes out of the two hundred and forty members, and it was passed in the Senate without a division.'

Governor Brewer, of Mississippi, says:

'Our law applies to all State officials. Taken on the whole I regard the primary law as satisfactory. There is no question in the world that by this method the wishes of the people are carried out, which cannot be said of the ordinary 'convention' method.'

United States Senator James K. Vardaman, of Mississippi, says:

'In Mississippi the direct primary law has served to put the government in the hands of the people rather than the bosses. It amuses the voter to study all economic and governmental questions and to realize that this is a government which derives all of its just powers from the consent of the governed. It has done more. It has made the voter feel his responsibility for the laws and to appreciate the real function of citizenship. Every State in this republic should provide for the election of every officer from Governor down by a direct vote

of the people. The nomination by primary is only an application of this universally beneficent system.'

W. C. Elliston, clerk to the Secretary of State of Kentucky, says:

'The Primary Election Law of Kentucky applies to all offices and the various officials, both State and county, are elected under its provisions. The law has been a success from every standpoint, and we think it is quite a step along progressive principles to elect our various officers under it.'

Governor O. B. Colquitt, of Texas, says:

'I was among the first to advocate a general primary election law many years ago. Formerly a few politicians would get together in precinct or mass meetings, elect delegates, and adopt resolutions committing the party to policies and candidates often not approved by the majority of the people. Our State-wide direct primary is infinitely better than the old system which it supplanted.'

Governor Francis C. McGovern, of Wisconsin, says:

'In regard to the operation of direct primaries in our State, it has cleaned up the Legislatures and given us different kind of men than formerly, more independent.'

Governor Luther E. Hall, of Louisiana, says:

'There is no prospect that the State of Louisiana will ever return to the Convention Plan of making nominations. Old-time politicians are now and then heard to decry the direct primary and to sigh for the convention, but this sentiment is not wide-spread and may be said to be negligible.'

Governor James F. Fielder, of New Jersey, says:

'In 1912 by further enactment amending our Primary Law, presidential electors were included with the result that there is no longer any convention held in the State of New Jersey for nominating purposes. Last year there was a preferential vote for President, and now all presidential electors as well as State, county and

municipal officers are nominated by the direct primary. The manner in which our laws have been amended from time to time until they finally include all elective officers in the State is the best evidence of their popularity.'

Governor George W. P. Hunt, of Arizona, says:

'In Arizona the Direct Primary Law is applicable to all elective State officials. I will say without hesitancy that the system of direct primaries applicable to all officers is immeasurably better than the old method of nominating by conventions.'

Charles H. Sessions, Secretary of State of Kansas, says:

'The Kansas law applies to all elective officers from United States Senator down to township trustee. The law works so well in regard to its application to nominations for all officers that no attempt, or even a serious suggestion, has been made to repeal it. What opposition there was to the enactment of the law has almost disappeared. Now and then a politician protests against it, but on the whole it is very popular with the people and it has come to stay.'

Governor Park Trammell, of Florida, says:

'The primary system has been in force for about twelve years, and has given almost universal satisfaction. Some four years ago in our Democratic primary a question was put before the voters as to whether or not a State convention was desired, it being the claim of the supporters of the convention that it was merely for the purpose of making a party platform. Many were of the opinion, however, that it was for the purpose of attacking the primary system. The vote was about five to one against the State convention. This expression indicated very conclusively how the people of Florida felt at that time relative to nominating by primary. The primary system has come to stay in this State.'

United States Senator Henry S. Ashurst, of Arizona, says:

'It is impossible to exaggerate the civic benefits which flow from a pure, sweeping, State-wide primary election law. The primary nomination which abolishes

the convention, eliminates the 'purchase proxy.' It destroys the secret caucus methods, and it guarantees to the plain citizen the same degree of potentiality as each and every other citizen possesses. Now and then, in the past, a Legislature, or a political convention, has been found on the bargain counter and purchased as so many oxen in the field, but it is impossible to purchase all the people.'

'In Arizona we have a state-wide primary law for the nomination of all candidates, including United States Senators, and while it might seem ungracious in me to praise the bridge which carried me over, I cannot refrain from observing that in Arizona, I, a poor man, with absolutely no income whatever except my small law practice, was enabled by means of the direct primary, where the people had the right to express their choice, to defeat the combined influences of the railroads, national banks, the smelter trust and every corrupt politician in the State, all of which interests confederated and combined in the hope of bringing about my defeat and electing a reactionary.

'I mention this circumstance to show that a direct primary does not operate in favor of the rich man and against the poor man, for we frequently find the argument advanced that 'under the direct primary no one but a very rich man may enter the political field.' The very reverse is true. A poor man may enter the primary, and if he have ability, facts, courage and energy, he may canvass any of our largest and most populous states by the expenditure of a few hundred dollars, whereas, if he were required to go before a convention to obtain a nomination, a number of sinister private interests would be able to cohere, by means of purchased proxies and by means of secret caucus methods, control the situation.'

This unimpeachable testimony — and I could adduce much more — seems quite conclusive, and if any one tells us that a direct nominations law is not a good thing for New York, we can point to what other states have done through the agency of this beneficent reform as a refutation of the reactionary assertion.

No man fears direct primaries except a man whose character, and whose ability, and whose mentality cannot bear the searchlight of publicity. No man fears direct primaries, unless he wants to be the creature of invisible government rather than the servant of popular government.

Let me, therefore, renew my former recommendations, reiterate all that I have previously said, and again sincerely and earnestly urge the legislature to pass a direct primary bill that shall provide:

1. That all party candidates for public office shall be nominated directly by the enrolled party voters at an official primary — the official primary to be conducted by the State, and surrounded with all the safeguards of an official election — any violation of the official primary law to be a felony.

2. A State Committee of 150 members, one from each Assembly district, and a county committee for each county, to be elected directly by the enrolled party voters at the official primary.

3. All party candidates for public office to be voted for in the official primary must be designated by petition only, the same as independent candidates.

4. Every designating petition should contain the appointment of a committee for filling vacancies on the primary ballot.

5. Candidates to be arranged on the ballot under the title of the office. Order of arrangement to be determined in each group by lot, by the commissioners of election, in the presence of the candidates or their representatives. All emblems on the official primary ballot must be abolished. Names of candidates to be numbered. The voter to indicate his choice by making a separate mark before the name of each candidate.

6. The number of enrolled party voters required to sign a designating petition should be fixed at a percentage of the party vote for Governor at the last preceding election, except that for State offices the number should not exceed 5,000 enrolled party voters, of which 100 shall be from each of at least twenty counties.

7. The primary district should be made identical with the election district, and the primaries of all parties should

be held at the same polling place, conducted by the regular official election officers, just the same as an official election.

8. Each party to have a party council to frame a platform; such council to consist of the party candidates for office to be voted for by the State at large; party Congressmen and party United States Senators; candidates for the Senate and Assembly; members of the State committee; and the chairman of each county committee.

9. The time for filing independent nominations subsequent to the filing of party nominations should be increased from five days, as now provided, to fourteen or more days. The number of signers of an independent certificate of nomination should conform to the number of signers of a party designation.

10. Election of United States Senator by the people should be provided for in accordance with the recent constitutional amendment. Nominations for United States Senator to be made at the official primary in the same manner as for the office of Governor.

11. Registration days in the country should be reduced from four to two, and registration in the country should be by affidavit where voter does not appear personally.

12. Boards of elections in counties having less than one hundred and twenty thousand inhabitants should be reduced from four members to two, in order to decrease the expenses.

13. The use of party funds at primary elections to be absolutely prohibited, and made a felony.

14. The penal law should be amended limiting to a reasonable sum the amount of money that may be expended by a candidate, or any one on his account, for the purpose of seeking a nomination to public office, any violation of the same to be a felony, and make the nomination, if secured, a nullity.

15. Delegates and alternates from the State at large, and from congressional districts, to the National Convention should be chosen by the direct vote of enrolled party voters at the official primary.

Such a law, in my judgment, will substantially redeem our party pledges and meet the just demands of the enrolled party voters of the State. Any proposition less than this begs the whole question and violates the pledged faith of the several political parties to their voters in the State.

In this connection I deem it my duty, to say to the Legislature, that I have no pride of opinion regarding details and non-essentials in the construction and the enactment of this legislation. The assertion that I have said that my bill must pass without the crossing of a "t" or the dotting of an "i" is absurd, and without the slightest foundation in fact. I have had too much experience as a legislator to utter such narrow-minded sentiments. As a matter of fact, the truth is, I have no vanity of authorship, and want none. My struggle is for the essential principle of State-wide direct nominations. On that fundamental principle the friends of State-wide direct primaries declare that there can be no honorable compromise.

No one can be deceived as to my contention and as to my attitude. All I am seeking to accomplish is to write on our statute books, an honest, and a simple, and a practicable direct nominations law — State-wide in its scope and application — in order to carry out in good faith party promises. That is all. Can I be more fair and more reasonable?

Let us be honest about direct primaries, and keep our pledges to the people. At all events, as the Governor, I shall, and if the Legislature does not, the people will know the reason why.

WM. SULZER."

Mr. Richards.— I call the attention of the Committee to the fact that at the extraordinary session called by the Governor to consider more particularly primary legislation, at the request of the Governor a bill was introduced by Senator McKnight, Exhibit 30 of this date, which provides for certain limitation of expenditures of candidates and also for the reporting of expenditures of candidates; and that bill was before the Legislature in extraordinary session at the message of the Governor.

Is someone here from the Secretary of State's office?

Mr. Vogel.— Yes, sir.

The Chairman.— Your full name, please.

Mr. Vogel.— Carl Vogel.

Carl Vogel, a witness called by the committee, having been first duly sworn by the Chairman of the Committee, testified as follows:

Examination by Mr. Richards:

Q. You are employed in the office of the Secretary of State here at Albany? A. I am, yes, sir.

Q. Have you, pursuant to a subpoena, produced a certain original statement of receipts and expenditures filed and sworn to by William Sulzer, and filed in your office on November 14, 1912? A. I have.

(Witness produces papers.)

Q. Is that the original? A. Yes, sir.

Q. And also a statement from the William Sulzer Progressive League? A. Yes, sir.

Q. Are there any other statements filed on behalf of William Sulzer or of any committee representing him? A. There are not.

Mr. Richards.— I offer those in evidence.

Statement of William Sulzer Progressive League received in evidence and marked Exhibit No. 32, of this date. The said exhibit reads as follows:

"STATEMENT OF TREASURER OF POLITICAL COMMITTEE.

Section 546 of the Election Law.

Section 546. Statement of campaign receipts and payments. The treasurer of every political committee which, or any officer, member or agent of which, in connection with any election receives, expends or disburses any money or its equivalent, or incurs any liability or its equivalent, shall, within twenty days after such election, file a statement setting forth all the receipts, expenditures, disbursements and liabilities of the committee, and of every officer, member and other person in its behalf. In each case it shall include the amount received, the name of the person or committee from whom received, the date of its receipt, the amount of every expenditure or disbursement, the names of the person or committee to whom it was made, and such expenditure or disbursement. Expenditures or disbursements in sums under five dollars need not be specifically accounted for by separate items, except in the case of payments made for account of or to political workers, watchers or messengers. The statement to be filed by a candidate or other person not a treasurer shall be in like form as that hereinbefore provided for, but in statements filed by a candidate there shall also be included all contributions made by him.

WILLIAM SULZER PROGRESSIVE LEAGUE,

New York County, New York City.

To the Secretary of State, Albany, N. Y.:

Pursuant to the provisions of section 546 of the Election Law, I, Levi C. Weinstock, treasurer of the committee representing the Wiliam Sulzer Progressive League Party in the county of New York do hereby report that the following is a statement of all moneys received, expended, disbursed, or liabilities incurred by said committee and of every officer, member or other person in its behalf in connection with the general election held in the county of New York on the 5th day of November, 1912, viz:

Receipts.

Date of Receipt.	Name of Person or Committee from whom received, when from Committee, give name of, and persons through whom received;	Amount Received.
1912.		
Oct. 16.	Samuel A. Potter	$15 00
16.	William Bagley	5 00
16.	Peter Geoghagen	10 00
16.	Bernard Nolan	10 00
16.	John H. Quest	5 00
16.	Henry Friedman	10 00
16.	Fred Ackerman	5 00
16.	M. A. Schulman	10 00
17.	A. S. Aaronstammer	10 00
17.	August Janssen	125 00
17.	Myron Sulzberger	15 00
17.	J. Osklag	10 00
18.	Leo Greenebaum	25 00
19.	Jacob Hellerstein	25 00
19.	Robert Hatch	10 00
25.	M. B. Lertig	25 00
25.	A. G. Unhof	15 00
25.	L. B. Weinstock	50 00
Nov. 1.	Jefferson M. Levy	40 00
4.	Ben Fredinan	10 00
4.	B. Sueskind	10 00
4.	Abe Levy	10 00
		$450 00

EXPENDITURES, DISBURSEMENTS AND LIABILITIES.

Date of payment.	Name of Person or Committee to whom made; when Com., give name of, and of person through whom made;	Amount.	Purpose of Expenditure.
1912.			
Oct. 16.	Meyer Wolff.....	$5 00	Postal cards.
20.	Meyer Wolff	21 80	Stamps.
20.	Meyer Wolff	9 25	Stationery.
20.	Jos. J. Roth.....	17 50	Distribution of literature, etc.
	R. Gressman	35 00	Signs.
	J. Kupath	4 45	Electrical wiring on sign.
25.	R. Gressman	23 00	Signs.
29.	Manhattan Slide Co...	17 50	Lantern slides.
29.	Meyer Wolff	5 00	Stationery.
25.	Edward Ernst	7 50	Distribution of literature.
24.	Alexander Potruck ...	5 00	Distribution of literature.
31.	Jos. J. Roth.....	17 00	Distribution of literature.
Nov. 2.	Edward Ernst	16 50	Distribution of literature.
2.	Alexander Potruck ...	16 50	Distribution of literature.
2.	Meyer Wolff	2 10	Stationery.
6.	Jos. J. Roth.....	37 00	Distribution of literature.
6.	Meyer Wolff	3 20	Stamps.
5.	Jos. J. Roth.....	5 00	Decorating and distributing.
2.	Alex. Potruch	2 50	Literature Sewan Park meeting, stationery, etc.
2.	Jos. J. Roth.....	17 00	Expenses and distribution of literature.
6.	Meyer Wolff	100 00	Rent and electricity.
6.	Morris Levine	22 50	Automobile hire.
6.	R. Rosenthal	4 00	Wagon hire.
6.	R. Grossman	10 50	Signs.
6.	Royal Press	5 75	Printing.
6.	Ed. Ernst, Jos. J. Roth A. Potruch and H. Lang	31 60	Distribution of literature and help.
6.	Meyer Wolff	5 00	Sewan Park meeting, flags, etc., Sewan Park meeting.
		$451 15	

Dated November 11, 1912.

LEON C. WEINSTOCK,
Treasurer.

Statement of William Sulzer received in evidence and marked Exhibit No. 33, of this date. The said exhibit reads as follows:

"STATEMENT OF RECEIPTS AND EXPENDITURES OF A CANDIDATE FOR A POLITICAL OFFICE.

"Sections 750 and 776 of the Penal Law:

"§ 750. Definitions. The words 'election' or 'town meeting,' as used in any of the sections of this article, excepting section seven hundred and fifty-one, shall be deemed to apply to and include all general and special elections, municipal elections, town meetings and primary elections and conventions, and proceedings

for the nomination of candidates by petition under the election law. The word 'candidate' as used in said sections, shall be deemed to apply to candidates for nomination at a primary election or convention, and candidates for any office to be voted for under the election law, as well as candidates for nomination by petition under the election law.

"§ 776. Failure to file candidate's statement of expenses. Every candidate who is voted for at any public election held within this state shall, within ten days after such election, file as hereinafter provided an itemized statement showing in detail all the moneys contributed or expended by him, directly or indirectly, by himself or through any other person, in aid of his election. Such statement shall give the names of the various persons who received such moneys, the specific nature of each item, and the purpose for which it was expended or contributed. There shall be attached to such statement an affidavit subscribed and sworn to by such candidate, setting forth in substance that the statement thus made is in all respects true, and that the same is a full and detailed statement of all moneys so contributed or expended by him, directly or indirectly, by himself or through any other person, in aid of his election. Candidates for offices to be filled by the electors of the entire state, or any division or district thereof greater than a county, shall file their statements in the office of the secretary of state. The candidates for town, village and city offices, excepting in the city of New York, shall file their statements in the office of the town, village or city clerk, respectively, and in cities wherein there is no city clerk, with the clerk of the common council of the city wherein the election occurs. Candidates for all other offices, including all officers in the city and county of New York, shall file their statements in the office of the clerk of the county wherein the election occurs unless the county has a commissioner of elections, in which case candidates shall file their statements in the office of such commissioner of elections."

Any candidate for office who refuses or neglects to file a statement as prescribed in this section shall be guilty of a misdemeanor. A county clerk or commissioner of elections with whom a candidate's statement of expenses is filed shall, within twenty days after the election, file a certified copy thereof with the secretary of state.

I, Wm. Sulzer, residing at 175 Second Ave., County of New

York, N. Y., do hereby make and file the following itemized statement of all moneys received, contributed or expended by me directly or indirectly, by myself or through any other person, as the candidate of the Democratic party for the office of Governor of the State of New York, in connection with the general election held in the State of New York on the fifth day of November, 1912.

RECEIPTS.

Date.		Name of Contributor.	Amount.
Sept.	23.	Herbert Friedenwald	$10 00
	2.	Hugo Gutfreund	10 00
	3.	Hugh Martin	50 00
	3.	Philip Matthews	100 00
	3.	J. Bittner	50 00
	3.	Luke D. Stapleton	50 00
	3.	S. R. Ellison	25 00
	3.	John F. Wallace	100 00
	3.	Harold I. Spielberg	25 00
	3.	Lawson Purdy	100 00
	3.	Andrew G. Vogt	100 00
	3.	Thomas F. Martin	25 00
	4.	W. D. Mann	50 00
	4.	William H. Todd	50 00
	4.	Ben Doblin	5 00
	5.	Gallagher & Co	25 00
	8.	Charles Brandt, Jr	25 00
	7.	C. H. Norman	100 00
	3.	S. T. Armstrong	50 00
	10.	M. J. Elias	100 00
	9.	P. H. Nolan	50 00
	7.	J. E. Nolan	50 00
	9.	Peter McDonnell	250 00
	7.	Jos. Hennessy	25 00
	9.	Geo. W. Wingate	50 00
	8.	Jas. C. McEachen	100 00
	10.	Hugh Daly	25 00
	11.	Frederick C. Penfield	200 00
	11.	John R. Dos Passos	100 00
	8.	Jas. A. McCafferty	50 00
	10.	William Barthmann	50 00
	11.	John F. Nagle	50 00
	14.	Thomas Willis	25 00

Date.		Name of Contributor.	Amount.
Sept.	16.	Nath H. Levi	$25 00
	14.	Hugo Haupt	10 00
	15.	Nelson Smith	100 00
	15.	J. W. Armstrong	10 00
	15.	A. F. Schaeffer	40 00
	16.	James F. Hurley	50 00
	15.	Geo. W. Neville..	50 00
	16.	David Gerber	150 00
	15.	Wm. F. Carroll	10 00
	14.	Willis B. Dowd	15 00
	10.	MacGrane Coxe	200 00
	10.	Mr. Bauman	50 00
	10.	Wm. R. Penney	50 00
	14.	Lewis Conlan	110 00
	19.	Leo Schlesinger	200 00
	19.	E. Neufeld	25 00
	18.	R. J. Cuddihy	50 00
	21.	Chas. Friel	10 00
	21.	Wm. H. Miller	250 00
	21.	Roger Foster	250 00
	23.	W. E. Curtis	100 00
	26.	John B. Judson	100 00
	23.	John M. Gardner	200 00
	25.	C. H. Unverzagt	25 00
	23.	Charles Thorley	100 00
	24.	Henry Block	100 00
	29.	John F. O'Donoghye	10 00
	30.	John B. Gray	50 00
Nov.	1.	Louis F. Doyle	100 00
		B. D. Dugunji	20 00
	2.	Jos. W. Kay	250 00
	2.	Isaac Purdy	250 00
	2.	John Standfast	25 00
	2.	O. J. Gude	100 00
	4.	J. Jacobs	500 00
			$5,460 00

EXPENDITURES.

Date.	To whom paid.	Amount
From Oct. 1 to Nov. 5.	Post Office Dept. stamps, etc.	$1,635 65
	Western Union & Postal Telegraph Co.	52 33
	Henry Rogowski, printing	2,947 95
	Public Printer, Washington, D. C.	660 80
	Sam Bruckheimer and assistant, stenographic work	244 00
	Whitehead & Hoag, campaign buttons	970 05
	Seiter & Kappes, lithographs	133 00
	The Hartley Company, lithographs	150 00
	Expressage, Adams, American and U. S. Ex. Co.	68 61
	Trows Addressing Company	861 50
	Total	$7,724 09

(Signed) WM. SULZER.

Dated, November 13, 1912.

STATE OF NEW YORK,
City and County of New York, } *ss.:*

Wm. Sulzer, being duly sworn, says that he is the person who signed the foregoing statement, that said statement is in all respects true and that the same is a full and detailed statement of all moneys received, contributed or expended by him, directly or indirectly, by himself or through any other person in aid of his election.

WM. SULZER.

Sworn to before me this 13th
day of November, 1912.

ALFRED J. WOLFF,
Commissioner of Deeds No. 72,
New York City.

Mr. Richards.— That is all, Mr. Vogel.

(Mr. Richards here read Exhibit 33.)

Mr. Richards.— I offer in evidence an original canceled check of Harold Spielberg to the order of William Sulzer for $25

with certain endorsements on the back, and I ask to have that marked.

Check received in evidence and marked Exhibit No. 34, of this date.

Mr. Richards.— I will read the face of this check and then the endorsements, to the committee. On the face of the check (reading): "Harold Spielberg, New York, October 3, 1912, No. 577, The National Nassau Bank of New York, pay to the order of William Sulzer Twenty-five dollars ($25) and no hundredths, Harold Spielberg." And the following endorsements (reading): "William Sulzer, Louis A. Sarecky, Pay to the order of National Bank of Commerce, October 8, 1912, Mutual Alliance Trust Company of New York." I think it says 35 Wall street. "Received payment through the New York Clearing House October 8, 1912, receiving teller, endorsements guaranteed, National Bank of Commerce in New York."

The Chairman.— Now, Mr. Richards, isn't that check accounted for in —

Mr. Richards.— (Interrupting) That check is, I call the committee's attention to, accounted for in the original statement as one of the contributions received by William Sulzer under date of the check for its amount. And it appears that the check went to Louis A. Sarecky and was by him deposited in the Mutual Alliance Trust Company, at 35 Wall street.

The Chairman.— What do you propose to prove by the check, Mr. Richards?

Mr. Richards.— I want to prove by that check that at least some of the contributions made and reported by William Sulzer went to the account of Mr. Sarecky, who was evidently the custodian of some of these contributions, and that he had an account for that purpose in the Mutual Alliance Trust Company, of 35 Wall street.

The Chairman.— All right.

Mr. Richards.— I now offer in evidence a check drawn on the National Bank of Commerce in New York to the order of Louis A. Sarecky, for $2,500, and signed Kuhn, Loeb & Company, with certain endorsements on the back which I will read afterwards and certain other things on the face of it. I ask to have that marked.

Check received in evidence and marked Exhibit No. 35, of this date.

Mr. Richards.— I will read the whole of this check and the whole of the endorsements (reading):

> "No. 119755, Kuhn, Loeb & Company, New York, October 14, 1912. National Bank of Commerce in New York. Pay to the order of Louis A. Sarecky, twenty-five hundred dollars, $2,500.00.
>
> Kuhn, Loeb & Company."

The endorsement is "Louis A. Sarecky, Pay to the order of the National Bank of Commerce, October 15, 1912, Mutual Alliance Trust Company of New York." Then there is another stamp, "National Bank of Commerce in New York, Paid October 15, 1912, second teller." Showing that this check went into the same account as the check of Harold I. Spielberg went to. I have further, on the corner of this check, in the handwriting of Mr. Jacob H. Schiff, the following endorsement: "Mr. Schiff's contribution toward William Sulzer's campaign expenses."

Is Miss Scott here?

(No response.)

Mr. Richards.— There was another witness who was subpoenaed, who is to come on the train, but who has not yet arrived, so I will call Mr. Louis A. Sarecky.

The Chairman.— What is your full name, please?

Mr. Sarecky.— Louis A. Sarecky.

Louis A. Sarecky, a witness called by the Committee, having been first duly sworn by the chairman, testified as follows:
Examination by Mr. Richards:

Q. Mr. Sarecky, where do you live? A. 516 Monroe street, Brooklyn.

Q. And are you connected with some of the departments of the State government? A. I am.

Q. What one and in what capacity? A. At present I am connected with the State Hospital Commission as deportation agent for the State of New York of the alien insane.

Q. And has your salary been fixed yet? A. That I don't know. I think it is $4,000 a year, but I can't say definitely.

Q. That is the understanding, that you expect to have $4,000 a year? A. So I have been informed.

Q. Who informed you to that effect? A. The secretary to the State Hospital Commission.

Q. Did you have any talk with Governor Sulzer about that? A. I asked him for the place.

Q. Yes, and did he say anything about what the salary would be? A. No, he said nothing; it never came up.

Q. You didn't bother about that? A. No, sir.

Q. How old are you, Mr. Sarecky? A. Twenty-seven year.

Q. Twenty-seventh year? A. That is, I am going on twenty-eight.

Q. And what is your profession? Have you any profession in particular, or have you some general occupation? A. Well, I am a graduate of a law school; I have been acting as secretary; I have been connected with various businesses.

Q. You have been connected with Governor Sulzer for some years, have you not? A. Since December, 1902.

Q. And in what capacities have you acted for Governor Sulzer? A. Well. I was an assistant around the office and finally in a sort of confidential secretaryship.

Q. Confidential secretaryship? A. Yes, sir.

Q. And then in addition to that, you acted as secretary and treasurer for some of the companies that Governor Sulzer was interested in, did you not? A. I think yes.

Q. There isn't any doubt about that, is there? A. Yes.

Q. But what is your position in those companies? A. Well, I don't want to answer that question on the ground that it doesn't come under the jurisdiction of the resolution adopted by the Legislature.

Q. Well, you mean to say that you refuse to answer the question? A. I do.

Q. And will you tell us what your compensation has been before you obtained this position which you say you are going to receive $4,000 a year for? A. I was receiving $2,500 a year.

Q. $2,500 a year? A. Yes.

Q. Part of it salary for some of these corporations? A. No, sir.

Q. What was it for, as confidential secretary to Governor Sulzer? A. Confidential stenographer to the Governor.

Q. And you have occupied that position about how long? A. Since March fifteenth of this year.

Q. And the position as confidential secretary of the Governor,

how long have you occupied that position? I mean in his office before he was Governor? A. About 7 or 8 years, I guess.

Q. And did you act also in that same capacity for him as chairman of the committee on foreign affairs? A. I was his New York secretary.

Q. New York secretary? A. Yes.

Q. Did you have any separate salary for that position? A. No, sir, he paid me out of his pocket, out of his own pocket.

Q. And paid you in all $2,500 a year? A. About that.

Q. About that? A. Yes — well, at that time. At various times I was increased to —

Q. (Interrupting) I am only just getting your own statement. A. Yes, the salary ranged from $1,500 up to $2,500.

Q. And you are — before you were in a position with the deporation bureau, what was your position then? What were you doing in any of the State departments in connection with any State work? A. Well, I was — I worked wherever I was assigned to by the Governor; I attended to matters in his office; then I was assigned to work with various people, making examinations and investigations.

Q. To whom, for instance, were you assigned? A. I was assigned to work with Mr. Hennessy.

Q. In connection with the investigation of the highways? A. Yes, sir.

Q. And when did that begin and how long did it last? A. I think it began sometime in April and ended — well, I don't know whether it is ended. I haven't done any active work recently.

Q. How long ago did it — did the active work end? A. About a month ago, I think.

Q. And since that time have you been connected with the deporation bureau? A. For about a week. I was appointed there on July 8th.

Q. And during that time you were practically not engaged actively in anything between June and July 18th? A. I was.

Q. Oh, you were? A. Yes, I was working for the Governor, in his office.

Q. You were working for the Governor in connection with his own work? A. In connection with State work in his department.

Q. As stenographer and clerk? A. As stenographer and clerk.

Q. And were you in that position of secretary or stenographer and clerk with the Governor in the fall of 1912? A. Yes.

Q. And did you have an account in the Mutual Alliance Trust Company? A. I did.

Q. And did you deposit checks which were received by Governor Sulzer and indorsed to you, in that account? A. Now, gentlemen, I want to make a statement on record before I testify further. If you are delving into the Governor's campaign expenses, I am willing to tell everything on condition that I be represented by counsel, because, if the story is to be told, I want both sides told—

The Chairman (interrupting): Mr. Sarecky, if Mr. Richards asks you any question that you feel you won't answer, you have a right to refuse.

The Witness: Well, I feel that the Committee has absolutely no authority at all to conduct the investigation.

By the Chairman:

Q. We don't want your opinion at all about the Committee. A. Yes, sir.

Q. You are an employee in this State? A. I am.

Q. This is the Legislature elected by the people of this State and we won't ask your opinion or any other man's opinion of what the rights of the Legislature are. A. Right.

Q. If you don't desire to answer, Mr. Sarecky, I want you to state so plainly. A. And I will state the reasons.

Q. I don't want any reasons. Don't you want to answer? A. I will answer any question —

Q. (Interrupting) We don't want your opinion whether we have a right or not? A. Well, I have a right to my own opinion, and I want it.

Q. If you decide not to answer, we will take care of it. A. Whatever I refuse to answer I will give you reasons for refusing to answer.

Q. All right, do that; but we don't want any statements or speeches about what you think the Legislature has a right to do. A. It isn't what I think. It is what I have been advised by counsel.

Q. I don't care about your advice. A. Very well.

By Mr. Richards:

Q. I want to have you look at Exhibit 33, being the statement signed and sworn to by William Sulzer, and ask you whether you

drew that paper? A. I refuse to answer that question on the ground stated, that the Committee has no jurisdiction to question me on anything —

The Chairman.—(Interrupting) I told you before, Mr. Sarecky, either answer yes or no. We don't want any of your opinions.

The Witness.— I can't answer the question yes or no.

The Chairman.— Then you refuse to answer the question?

The Witness.— I refuse to answer the question unless I am represented by counsel.

The Chairman.—You refuse to answer the question, do you?

The Witness.— I refuse to answer the question unless I am represented by counsel.

Q. You say you cannot answer the question yes or no, whether you didn't do the typewriting on the paper Exhibit 33? A. I say I refuse to answer that question unless I am represented by counsel.

Mr. Richards.— Turn back to his answer. You say that you didn't say that you couldn't answer it yes or no.

(The stenographer thereupon repeated the question and answer referred to as follows: "The Chairman.—(Interrupting) I told you before, Mr. Sarecky, either answer yes or no. We don't want any of your opinions. The Witness — I can't answer the question yes or no.")

Q. Now, did you say that? A. Well, when I said that I meant that I won't unless represented by counsel.

Q. I show you Exhibit 34 of this date and call your attention to the handwriting on the back of it, Louis A. Sarecky, and ask you whether that is your handwriting? (Counsel passes paper to witness.) A. Well, I refuse to answer that question on the same grounds, unless I am represented here by counsel.

Q. I ask you whether or not you put upon the back of Exhibit 34 the name William Sulzer with a stamp? A. I refuse to answer that question, too, on the same grounds.

Q. Did you deposit Exhibit 34 in the account of the Mutual Alliance Trust Company? A. I refuse to answer that question, too, on the same grounds.

Q. I will ask you to look at Exhibit 33, containing a report of a contribution by Harold I. Spielberg, $25, filed by William Sulzer, and ask you whether or not Exhibit 34 is not the check

for the amount stated in Exhibit 33? A. I refuse to answer that question too, on the same ground as my refusal to answer the previous questions.

Q. I ask you to look at Exhibit 35 of this date, a check for the amount of $2,500 to the order of Louis A. Sarecky, deposited by Louis A. Sarecky apparently in the Mutual Alliance Trust Company, and I ask you whether or not your handwriting is not on the back of that check? A. I refuse to answer that question on the same grounds as I refused to answer the previous questions and request permission to have counsel represent me here.

Q. Did you have — did you keep books of account of the Governor's contributions? A. I refuse to answer that question on the same grounds as I refused to answer previous questions.

Q. What other bank accounts did the campaign contributions of William Sulzer go into besides the Mutual Alliance Trust Company? A. I refuse to answer that question too, on the same grounds as I refused to answer the previous questions.

Q. Did you take some checks for campaign contributions and deposit them over in a bank in New Jersey? A. I refuse to answer that question too, on the same grounds as I refused to answer the previous questions.

Q. Did you go over about every three days to a bank in New Jersey and deposit there some of the Governor's contribution campaign checks? A. I refuse to answer any questions appertaining to the Governor's campaign unless I am represented here by counsel because we want to have the whole story told.

Q. Where is the bank book? Where is the bank book which you kept with the Mutual Alliance Trust Company in October, 1912? A. I have got it.

Q. Where is it, with you? A. Not with me.

Q. Where is it? A. I have got it in my desk.

Q. You mean down in New York city? A. Yes.

Q. Have you got there also the books showing the contributions to the Governor's campaign fund? A. I refuse to answer that question on the same grounds as the previous questions.

Q. And what books did you keep of the Governor's campaign funds? A. I refuse to answer that question on the same grounds as I refused to answer all previous questions put to me.

Q. Where else, besides the Mutual Alliance Trust Company in the city of New York, what trust company or banks did you personally make deposits in for the — of the Governor's cam-

paign checks? A. I refuse to answer that question and all other questions appertaining to the Governor's campaign fund unless I am permitted to be represented here by counsel, who will bring out the whole story and not one side of it, and he will give me full opportunity to explain any items that may appear doubtful on the face of it.

Q. Who advised you to refuse to answer? A. My counsel.

Q. Who is your counsel? A. Mr. Louis Marshall.

Q. When did you first see Mr. Louis Marshall? A. I refuse to answer that question.

Q. Did you first see Mr. Louis Marshall in the Governor's house or in the Governor's executive chamber? A. I refuse to answer that question too. It is purely a personal matter.

Q. When were you served with a subpoena to appear here before this Committee? A. July 23d.

Q. When you got that subpoena what was the first thing you did? A. Put it in my pocket.

Q. Who did you communicate with? A. I didn't communicate with anybody until probably the following day when I notified Mr. Hennessy that I have been invited to come up here.

Q. You regarded it as an invitation? A. Yes, because I don't think I could be compelled to come up here.

Q. And had you then taken legal advice? A. Not then.

Q. When did you first take legal advice? A. Sometime between receiving the subpoena and my coming up here.

Q. Well, you got it Wednesday. Now, when was it you took legal advice? A. I can't answer any more definitely than sometime between that and my coming up here.

Q. You mean you can't tell us within a week? A. It was within a week because it was a week.

Q. You cannot tell us any nearer than within a week the day it was that you consulted counsel? A. No, sir; I can not.

Q. Where did you consult counsel? A. I refuse to answer that question. It is a purely personal matter between myself and counsel.

Q. Who recommended the counsel to you? A. Nobody did.

Q. You chose him yourself, did you? A. I did, yes, sir.

Q. You chose him yourself; you say that absolutely that nobody suggested any counsel to you? A. Well, his name was suggested to me as being a good counsel.

Q. Who suggested his name to you as being a good counsel? A. I refuse to answer that question, too.

Q. And how many times have you talked with the Governor since you got this subpoena? A. Well, I talk to him pretty nearly every day I am up here.

Q. Well, you were down in New York attending to the business of the State when you got this subpoena? A. Yes, I was.

Q. When did you come up here to see the Governor? A. I came up here yesterday.

Q. That was the first time you came up to see him? A. No. I was up here before then, not to see the Governor but to see the Secretary of the Hospital Commission, and incidentally dropped in to see the Governor.

Q. You came up on official business and then incidentally you went in and spoke to him? A. I did.

Q. Did you tell him about this subpoena? A. Yes.

Q. Did he tell you to refuse to answer? A. He did not.

Q. Did he suggest anything of that kind? A. No, sir.

Q. Do you tell that positively? A. I tell that positively.

Q. Was there a discussion about refusing to answer? A. There was a discussion about a subpoena.

Q. I am asking you whether there was any discussion about your refusing to answer? A. No, sir.

Q. No suggestion of that was made at any interview you had with the Governor? A. No, sir.

Q. Whom else did you see beside the Governor when you came up here as you say on business for the Hospital Commission? A. I saw Mr. Hennessy.

Q. Did you discuss with Mr. Hennessy your refusing to answer the subpoena? A. I did.

Q. Did Mr. Hennessy advise you not to answer the subpoena? A. He concurred in the opinion rendered by Mr. Marshall.

By the Chairman:

Q. Was Mr. Marshall the attorney who advised you? A. He was the attorney that advised me.

Q. Mr. Louis A. Marshall? A. I think it is Mr. Louis Marshall.

The Chairman.— Note that Mr. Louis Marshall is the attorney who advised the witness to refuse to answer.

By Mr. Richards:

Q. Where is Mr. Louis Marshall's office? A. In New York City.

Q. Where? A. I think on Wall street; 37 Wall.

Q. Don't you know where his office is? A. No, sir.

Q. Have you been to his office? A. Never.

Q. Where did you see him? A. I refuse to answer that question, too.

Q. Did you see him in Albany or New York? A. I refuse to answer that question.

Q. Was anybody present when you saw Mr. Marshall, excepting you and he? A. I refuse to answer that question, too.

Q. Did you see him uptown or downtown in New York, or did you see him in Albany? A. I refuse to answer any question as to where, when and who was present when I saw Mr. Marshall.

Q. I am not asking you for your communication with him. I am asking for the place of communication. A. Well, I refuse to answer that question. It is purely a personal matter.

Q. You cannot tell us where his office is? A. On Wall street; 37 Wall street, or 39.

Q. Are you sure of that now? A. No, I would not take an oath.

Q. Did you ever go there? A. No, I have had communications with him.

Q. When? A. On various occasions.

Q. Before this matter came up? A. Oh, yes. Long before this matter came up.

Q. Did you ever have a communication with him in regard to campaign contributions? A. No, sir.

Q. Do you say he did not give one? A. I refuse to answer that question on the ground previously stated, that I refuse to answer any question whatsoever pertaining to the Governor's campaign fund unless I am represented here by counsel.

Q. I am asking you now if in October, 1912, you did not get a check from Mr. Marshall for the Governor's campaign fund, a contribution? A. I refuse to answer that question on the same grounds.

The Chairman.— Mr. Richards, there is a lady here with some papers, brought by subpœna. Will you suspend with this witness for a few minutes?

Mr. Richards.— Yes. Will you just step aside a moment, Mr. Sarecky?

Mr. Sarecky.— Surely.

Mr. Richards.— Miss Scott.

Frances R. Scott was called as a witness, and having been duly sworn by the Chairman, testified as follows:

Examination by Mr. Richards:

Q. What is your full name? A. Frances R. Scott.

Q. Where do you live, Miss Scott? A. 601 West 115th street, New York city.

Q. Are you employed by Mr. Elkus, Abram I. Elkus? A. I am.

Q. In what capacity? A. Private secretary.

Q. And were you served with a subpœna to produce a certain cancelled check of Mr. Elkus for $500 the day before yesterday? A. I was.

Q. Have you produced that check? A I have it with me.

Q. Will you kindly produce it? A. Yes (producing check).

Q. This is produced from Mr. Elkus' papers? A. yes, sir.

Q. From his cancelled checks? A. Yes, sir.

Mr. Richards.— I offer that in evidence.

(The check was received and marked Exhibit 36 of this date.)

Mr. Richards.— I will read the whole of this check to the Committee, both front and back.

On the front (reading):

"Abram I. Elkus, 170 Broadway. No. 3749.

"New York, *October* 5, 1913.

"Plaza Branch Union Trust Company of New York.

"Pay to the order of William Sulzer Five hundred and 00/100 dollars ($500.00).

"Abram I. Elkus."

Indorsed (reading):

"William Sulzer."

Then (reading):

"Pay to the National City Bank of New York or order. The Farmers Loan and Trust Company. Augustus V. Healey, Vice President and Secretary."

Then another indorsement:

"Received payment through the New York — another endorsement (reading):

"Pay to any bank or to order. Prior endorsements guaranteed. October 9, 1912. The National City Bank of New York. A. Cavanaugh, Cashier."

That was the next bank, "To Farmers Loan and Trust Company." That is the endorsement, Mr. Chairman. Then last (reading):

"Received payment through New York Clearing House, October 8, 1912. Prior endorsements guaranteed. The National City Bank of New York."

Q. You were also asked to produce a copy of any letter written by Mr. Elkus in transmitting this check. Have you done so? A. I have; I have it here.

Q. Is this a copy of the letter? A. It is.

Q. From his files? A. Yes, sir.

Mr. Richards.— I offer this letter in evidence and ask to have that marked.

(The letter was received and marked Exhibit 37 of this date.)

Mr. Richards.— I read to the Committee Exhibit 37 of this date — (reading):

"Hon. William Sulzer, 115 Broadway, New York City.

My Dear Friend.— I beg to extend to you my heartiest congratulations upon your well deserved nomination for Governor. I know you will make a most admirable candidate, and if elected will render most valuable service in the capacity of Governor to the State, just as you have rendered valuable service in all your public positions heretofore.

"I know congratulations are very pleasant and very nice, but a campaign to be successfully conducted requires something more than words; so I take great pleasure in enclosing my check for $500 to aid in the expenses of your campaign.

"I shall be very glad to speak for you as often as my engagements with the National Committee will permit and take every opportunity to tell the people of our long standing friendship and the high regard in which all who know you hold you. I remain, sincerely yours."

Q. The original of that was signed by Mr. Elkus? A. I presume so.

Q. Have you a letter from William Sulzer acknowledging recepit of that? A. Yes (witness produced letter).

Mr. Richards.— I offer that in evidence and ask to have it marked.

(The letter was received and marked Exhibit 38 of this date.)

Mr. Richards.— I read this to the committee (reading):

"COMMITTEE ON FOREIGN AFFAIRS, HOUSE OF REPRESENTATIVES, WASHINGTON, D. C.

NEW YORK, *October* 5, 1912.

Hon. Abram I. Elkus, 170 *Broadway, New York City:*

MY DEAR COMMISSIONER.— Many, many thanks for the very kind letter of congratulations. I appreciate every word you say and all you have done.

With best wishes, believe me, as ever,

Sincerely your friend,

WILLIAM SULZER."

Mr. Richards.— Thank you, Miss Scott, that is all.

The Chairman.— All right, Miss Scott, you are excused.

Mr. Richards.— Mr. Elkus is away, is he not?

The Witness.— Yes.

Mr. Richards.— Is he abroad?

The Witness.— Yes.

The Chairman.— The committee will take a recess for five minutes. We will ask counsel to appear and Mr. Sarecky, will you please remain here?

Mr. Sarecky.— All right.

The Chairman.— Before the committee leaves, is Mr. Marshall in the room?

(No response.)

The Chairman.— Is Mr. Louis Marshall in the chamber?

(No response.)

The Chairman.— We will now take a recess.

AFTER RECESS:

Louis A. Sarecky recalled.

Examination by Mr. Richards — Continued:

Q. Mr. Sarecky, it appears from evidence here that Mr. Abram I. Elkus made a contribution of $500 to Governor Sulzer's campaign fund, by a check, Exhibit 36. I will ask you to look at Exhibit 36 and state whether or not Governor Sulzer's own endorsement is on that check. A. You better ask the Governor about that.

Q. Are you familiar with the Governor's handwriting? A. Yes.

Q. Can you tell us whether this is his handwriting or not? A. I am not an expert on handwriting.

Q. I am not asking you as an expert. How many times, hundred of times have you seen him write? A. Oh, I never counted.

Q. I will ask you to look at that and tell us whether that is his handwriting or not? A. You better ask him, to get a correct answer.

Mr. Richards.— I ask the Chairman to direct the witness to answer.

The Chairman.—Answer yes or no, Mr. Sarecky.

The Witness.— I don't know.

Q. You mean to say that you swear under oath that you don't know whether that is William Sulzer's indorsement? A. I cannot answer under oath that it is.

Q. I am asking you again, whether you say that you cannot swear that is William Sulzer's personal indorsement? A. I cannot swear that it is.

Q. Do you know the penalty for perjury? A. I do.

Q. You realize it, do you A. I do.

Q. And that you are under oath? A. I do; but I cannot swear that is a man's signature. The best way to get that evidence, if you will permit me, is to ask the man who signed it, or presumably did.

Q. I show you Exhibit 38 and ask you whether that letter was signed by Governor Sulzer? A. Well, that is not the same signature as appears on that check.

Q. Did you sign it or did Governor Sulzer sign it? A. I don't know. I did not sign it.

Q. You did sign his name — A. I said I did not.

Q. You did sign his name depositing — A. I said I didn't —

Q. And you did sign his name to the indorsement of checks other than those that went into the Mutual Alliance Trust Company, didn't you? A. I did at times.

Q. Now, did you sign that one on Exhibit 36? A. I refuse to answer that question.

Q. Exhibit 36 was deposited in the Farmers Loan and Trust Company. Did you make that deposit? A. I have often made deposits for the Governor. I cannot remember whether I made this particular one.

Q. You are sure you made deposits in the Farmers Loan and Trust Company, but you cannot remember this? A. I cannot remember any particular one.

Q. Is that right? A. That is right.

Q. How long had he deposited in the Farmers Loan and Trust Company? A. You better ask that of the Governor himself.

Q. Don't you know that yourself? A. I don't. I have been only with the Governor ten years.

Q. Has he had it during all those ten years? A. I cannot answer. I think he has. I am not sure, though, about that.

Q. And from time to time you did deposit checks in that account to his order? A. Yes, when he was out of town or away.

Q. I ask you again to state whether or not the handwriting on Exhibits 36 and 38 are all the same person or not? A. Well, as I say, I am not an expert on handwriting and I cannot tell.

Q. Do you remember this check that Mr. Elkus sent in for a campaign contribution? A. I refuse to answer any questions pertaining to the campaign expenses of the Governor unless I am represented here by counsel so that the whole story may by both sides and nothing may be discolored.

Q. You haven't told any part of the story yet. A. I have not and I don't intend to unless I am represented by counsel so that the whole story may be told.

Q. In addition to checks coming in every day there was cash coming in, was there not? A. I refuse to answer that question on the same ground.

Q. Every day during October didn't cash come in in envelopes? A. I refuse to answer that question on the same grounds as I have previously stated.

Q. Every morning, in the morning's mail, didn't there dozens of letters come in enclosing checks and enclosing cash even down to so small an amount as $2? A. I refuse to answer that question on the same ground as I have refused to answer all previous questions relating to Governor Sulzer's campaign fund.

Q. Did you ever report any of those campaign funds? A. I refuse to answer that question on the same ground as I have refused to answer all previous questions pertaining to the Governor's campaign fund.

Q. I ask you now to look at Exhibit 33 and tell us whether any of the amounts that are set forth there, aggregating $5,460, represent cash? A. I refuse to answer that question on the ground stated in answer to your previous questions, that anything relating to the Governor's campaign fund, any question asked by you I refuse to answer unless you permit me to be represented by counsel, in order that the whole story may be told.

Q. I thought you might be willing to tell about this, as you say you did make it up. A. I don't say whether I made it up.

Q. Didn't you make it up? A. I don't say whether I did or did not. I refuse to answer that question.

Q. You refuse to answer that? A. Yes.

Q. The largest amount that is reported on the statement filed and sworn to by William Sulzer is $500, November 4th, J. Jacobs. Can you tell me who J. Jacobs is? A. I don't know. I really don't know who —

Q. Did you ever inquire what he looks like or where he lives? A. I don't know. I really don't know.

Q. Wasn't that originally Jacob S.? A. Jacob who?

Q. Jacob S. Fill out the rest of the name for me. Wasn't that originally Jacob Schiff and didn't you — A. Wait a minute —

Q. Now, listen. A. Just a minute —

Q. Didn't you change it? A. I want to say one thing. I am going to waive what I previously requested permission to be represented here by counsel, to answer that one question: That does not relate to Mr. Jacob Schiff nor anybody connected with him.

Q. Who is this J. Jacobs; tell me where he lives and what he looks like? A. I don't know.

Q. You made up this statement? A. I don't say I did. I refuse to answer that question.

Q. How do you know if you did not make up that statement that J. Jacobs was not Jacob Schiff. A. I know because we did not falsify any records. We had nothing to conceal and if that check was intended for Jacob Schiff his name would appear on there.

Q. You had nothing to conceal when you got $2,500 to your own order without passing through the Governor's endorsement. Do you still tell us you had nothing to conceal? A. What is your question.

Q. You just said you had nothing to conceal. Do you mean to stick to that when I show you this check for $2,500 that went to the Mutual Alliance Trust Company? Do you mean you had nothing to conceal there? A. Absolutely nothing.

Q. Why don't you tell about it? A. On the grounds previously stated unless I am permitted to be represented by counsel I refuse to answer, so that I may tell the whole story and not have it discolored.

Q. Not to have it discolored. Can't you tell it in black and white? A. Under the circumstances you bring out what you desire, and if I am permitted to have counsel I will answer, but otherwise I will not answer any questions pertaining to the Governor's campaign fund.

By the Chairman:

Q. What do you mean by discoloring? A. I mean when an attorney is questioning a witness he naturally wants to bring out his side of the situation and a witness might get rattled and make statements under oath which he ordinarily would not make; and unless I am advised here by counsel, unless I am permitted to have counsel to see what questions are legitimately asked of me, I refuse to answer any questions at all.

The Chairman.— Do you desire to put any more questions?

Mr. Richards.— I might ask him this:

By Mr. Richards:

Q. You are not rattled now, are you? A. Presumably not, no.

By the Chairman:

Q. What do you mean by discoloring; do you mean that the Committee or counsel have harassed you in any way? A. No; I mean to bring out one side. No, sir —

Q. Has the committee endeavored to embarrass you in any way? A. No, sir.

Q. Or discolor your story? A. No, sir; I haven't told the whole story.

Q. Then you refuse to furnish to the Committee any evidence whatsoever? A. Unless I am permitted to be represented by counsel, Mr. Chairman.

The Chairman.— Now, Mr. Richards, what further questions do you desire to ask the witness?

Mr. Richards.— I think that is all as far as this witness is concerned. Until we can pursue our inquiries further we might suspend with this witness, and I recommend —

The Chairman.— Before you suspend, the committee desires to recommend to you to proceed immediately and draw papers and present them to the court to punish the witness for contempt, he being an employee of this State and refusing to answer the Committee of the Legislature, designated by the Legislature of this State in these proceedings; and we request you now to immediately draw the papers and go before the court if you can this afternoon to ask for the order of arrest of this witness.

Mr. Richards.— Very good, sir.

The Chairman.— You will remain subpoenaed in this town, until some action is taken, Mr. Sarecky.

Mr. Sarecky.— Very well, Mr. Chairman. That all?

The Chairman.—That is all to-day.

(Witness excused.)

The Chairman.— Is there any other witness? I understand that Mr. Hennessy has some other matters to attend to, and if you can call him now or let him go —

Mr. Richards.— Mr. Hennessy can go for to-day.

James M. Clancy was called by the Committee as a witness and being first duly sworn by the Chairman, testified as follows:

Examination by Mr. Richards:

Q. Mr. Clancy, where do you live? A. 466 East 140th street.

The Chairman.— Mr. Richards, I may also state, though I suppose you recognize the need, that you ought to issue a subpoena for Mr. Louis Marshall.

Mr. Richards.— Yes, Mr. Chairman.

Q. New York City, do you live? A. Yes, that is my home. I am now residing at Sing Sing Prison, in Ossining.

Q. And you are the Warden of Sing Sing Prison? A. I am, yes, sir.

Q. How long have you been there? A. Since the 9th or 10th of July.

Q. And you have had a great deal of trouble there since you have been Warden, have you not? A. You are correct, sir.

Q. And you have made statements with regard to the cause of the trouble? A. I am sorry to hear you say that, sir.

Q. Have you not? A. I have not.

Q. You have not. That is what I wanted to know, whether you had made statements to any one in regard to the cause of the troubles. A. I have made statements. I might correct that, I have made statements.

Q. Have you ever spoken to any representative of the New York World as to the cause of your troubles? A. I have, yes, sir.

Q. We are to investigate and anything that you have got, any evidence that you have, we want to know it. A. Haven't you had too much experience to hold a man responsible for anything that the papers say. Your worthy Chairman would not be here if he were held responsible for what the papers say.

The Chairman.— Never mind whether I would be here or not.

The Witness.— You know yourself that is a fact.

The Chairman.— We don't want that. If you didn't make this statement, then deny it.

The Witness.— What is the statement?

Q. This is the heading of the New York World, July 25, and I first ask you whether you made this statement in substance — A Is it quoted?

Q. It is quoted apparently. This is what it says: (reading) "Sing Sing trouble inspired by enemies. Warden James M. Clancy," — that is the heading, subheading, I will let you look at it and you can look it over — "Warden Clancy, who assumed his duties as head of Sing Sing prison July 10th, by appointment of Sulzer, says, "The convicts are running the prison. Persons

opposed to the present administration inspired the trouble in the last few days. Warning of the trouble came ten days ago from a man in Albany and warning has been received of more serious trouble still. Prisoners knew of Attorney-General's opinion on the appointment of prison superintendent Riley before the arrival of Governor Sulzer's telegram informing the Warden." I will first ask you whether you made those statements to anyone, either to a representative of the World or anyone else? A. Where is this read from?

Q. Right here — (Indicating) A. Who did you understand to be running the prison, the convicts?

Q. I — A. Wait a moment. You must answer this "The convicts are running the prison."

Q. Now, Mr. Clancy —A. Wait a moment. You misunderstand.

The Chairman.— Just a moment. Answer the question.

The Witness — You want to ask me about the question, "The convicts are running the prison?" Do you understand that to mean —

The Chairman — Kindly answer Mr. Richards.

Q. I want to tell you— A. I want to tell you what that means.

Q. I asked about the first part of that statement. A. Wait a moment. You had better understand it. I will take up each one. Take the sentence, "The convicts are running the prison."

Q. I will give you every opportunity to explain it. A. Be fair.

The Chairman.— If you are not able to answer a fair question don't answer.

The Witness.— I will waive any question you ask.

Q. Did you say you did make that statement? A. I made the statement, "The convicts are running the prison."

Q. Yes. A. Now, I want to explain. I did not mean that the mutinous men were running the prison. I meant that the well-behaved convicts were running it, doing clerical work. That is what that meant. That is what it means.

Q. That is what it meant? A. That is what it meant, positively.

Q. You mean that they were running it well? A. Now, wait a moment, I mean the convicts were operating the prison; in other words, the convicts were doing the clerical work and running the machinery and were running and operating the prison. They were

running and operating the prison. Not the civilian help, it was the convict help that were running that prison.

Q. You mean they ran it? A. I positively meant that.

Q. That is what you meant? A. Yes, sir.

Q. That is your statement from your observation? A. That is my statement of my observation, limited as it is, but it is positively true, too.

Q. You simply meant by that that these convicts were doing the clerical work here and were also doing the work of the prison? A. Yes, sir.

Q. You think that is a good thing? I don't think anything of the kind.

Q. You don't like it? A. I am going to correct that if I can.

Q. That is the first statement. That is what you meant by that. The next is, "Persons opposed to the present administration inspired the trouble in the last few days." A. I deny it.

Q. You did not make that statement? A. I deny it.

Q. That is not true? A. I am not stating it is not true. I did not make that statement. When I make it publicly I will be prepared to prove it.

Q. That statement you did not make? A. Positively not.

Q. The next paragraph (reading): "Warning of the trouble came ten days ago from a man in Albany and warning has been received of more serious trouble still." Did you say that? A. That is not just what I said.

Q. What did you say? A. I said I had been in conference with the warden of another institution and he prophesied that I would have trouble down there. He asked me if I had any trouble down there and I said no. He said you can expect it.

Q. Then you did not intend to mean by that — A. I didn't say that I did not intend to mean anything by that, because I did not say that. This was nothing more than the prophecy of this man.

Q. That is of that man? A. Yes, of that man.

Q. The next one, "Prisoners knew of Attorney-General Carmody's opinion on the appointment of Prison Superintendent Riley before the arrival of Governor Sulzer's telegram informing the warden." Did you make any such statements? A. How could I make it. That was made months before I went up there. How did I know that?

Q. I am not — A. Well, I did not make it.

Q. Nothing of the kind, you made no statement of that kind? A. I did not make that.

Q. Did you make any statement of that kind? A. I would have no knowledge of it. He was appointed months before I went in there.

Q. So, with the exception of this statement, "the convicts are running the prison," and that following, that there would be trouble, necessarily trouble, that is all there is that is correctly and fairly reported? A. By the way, you see, that is not in quotations either.

Q. But that part here (indicating)? A. That is not in quotations.

Q. That is put in quotations here, the same thing. Look it over. A. Where is it? Show it to me in quotations.

Q. Don't hurry. Take your time. A. I am not hurrying. You are the one that is hurrying.

Q. Now, look it over. A. You see it is not the same thing at all.

Q. Read that. A. The one, saying the convicts are running this institution, that does not mean the mutinous convicts. That means the capable and qualified clerical help.

Q. That is when you wanted some information or help you had to go to the — A. To a convict to get it.

Q. Here is your statement, "This afternoon I heard about attorney general Carmody's opinion"— Don't look over the front page, look at the quotation. A. Here it is. It is not the same thing at all. That is what I am telling you. That is about superintendent Riley. That is not about the legality of the appointment.

Q. Read that. A. I did say that.

Q. Do you say there is any similarity or no similarity between the way you are quoted in the — A. I am not quoted on this at all.

Q. What does that seem to be there (indicating)? A. I would say that they would put quotation marks around a quotation in a newspaper.

Q. Sing Sing trouble — A. When a newspaper wants to quote a man they put it in quotations.

Q. Then I refer to this quotation, which you say is all the information you gave to the World? A. Don't you assume there is no similarity between two things, the one you asked on first and this one?

Q. Well, read it there. (Reading) "Prisoner knew attorney general Carmody's opinion in the matter of the appointment of superintendent Riley before I received the telegram which Governor Sulzer sent me on the same subject." A. That is not so to this extent, Governor Sulzer did not send any telegram but I did hear on the inside of the prison of the opinion before we were officially notified or, so far as I know, before our office was advised.

Q. Then you think there is some more difference between that one and the front? A. Can't you see it?

Q. A prisoner knew — you mean the warden? A. No, I am the warden.

Q. An official? A. An official.

Q. Will you give us the name of that officer? A. I could not name ten out of ninety-eight.

Q. Will you give us something whereby we can identify him and bring him here? A. I doubt if I could.

Q. Then you can — A. Do you mean to tell me you doubt what I am telling?

Q. I am not bothering about it. A. There is not a single —

Q. This Committee, warden, is from Missouri. We want to be shown. A. This Committee is not from Missouri.

Q. We are from the State of New York? A. They are not from the State of New York either.

Q. I will read again, "This afternoon I heard on the inside of the prison the news of attorney general Carmody's opinion in the matter of the appointment of prison superintendent Riley before I received the telegram which Governor Sulzer sent me on the same subject. A. That is not true, to the extent that Governor Sulzer ever sent me a telegram.

Q. Well, with regard to the part about hearing on the inside of the prison. A. That is positively true.

Q. That is true? A. That is true.

Q. When did you get that news from some man on the inside of the prison? A. Some time before I officially received it in the office.

Q. When was it received in the office? A. I could not tell you that.

Q. What was the date of receipt? A. I could not tell you that.

Q. What did it cover? A. I will tell you a remarkable coincidence in connection with it.

The Chairman.— Answer the question.

The Witness.— Now, let me tell you —

By the Chairman:

Q. You doubt this Committee's authority, don't you? A. What?

Q. You made the statement that you doubt this Committee's authority. A. I never said anything of the kind.

Q. I want you to answer the questions. A. You said I doubted the authority of the Committee.

Q. If you don't want to answer Mr. Richards, you have the same privilege as Mr. Sarecky. A. I won't exercise any such privilege. I know I have the privilege. I want to answer the questions.

Q. Never mind that, answer them. A. I am surprised that the Committee —

Q. Never mind about being surprised with the Committee. It is not your prerogative to feel surprised with the Committee. If you don't desire to answer you may refuse to do so? A. I want to answer all the questions, but I want to say here that —

Q. We don't want any speech. We want to get through. A. You are making the speech.

By Mr. Richards:

Q. You said something about a coincidence or something which would enable you to fix the date when you heard of the decision and the Committee wants to know who was this keeper who told you of the decision. A. Yes, I will tell the Committee. That opinion was rendered when we wanted to move some prisoners to Auburn. The Comptroller would give us no money to pay the fares of the officers or convicts. I got in touch with the New York Central and obtained permission from them to transport the prisoners, they taking a chance whether that would ever be made legal, and from that can fix this record.

Q. What relation did that bear to your receipt of the opinion? A. After the statement of the New York Central that they would give us money to move the prisoners, the next day or the same day I went to New York.

Q. Was that the day when you heard of the Attorney General's opinion? A. I think it was, but we are not going to fix it.

Q. The day that you got permission from the New York Central was the day you heard from one of the keepers? A. It was pos-

sibly the day before, or that day I got permission from the New York Central I was informed by a clerk in the New York Comptroller's office attached to prisons that I would be committing a felony. I said I would contract anyway, and take a chance on the felony.

Q. You think it may have been the very day? A. That is possible. I am not saying that day or the day before.

Q. It may be the day you got word? A. Yes.

Q. This keeper spoke to you? A. It is possible. It might have been an hour before, but shortly before it was officially received at the office.

Q. It was some period of time, but you don't know whether it was a day before or an hour or two before? A. That is right.

Q. Didn't it make some impression on your mind, such a statement as that, that some one of your keepers got information of the attorney-general's action on an important matter before you got it? A. Did that make any impression on me?

Q. Yes. A. It made this impression, it bore out everything that I had been told, of the information that I had been told —

Q. Wait a minute. That is not the question. A. You wait a minute —

Q. I am not asking you for the impression. I am asking you if it did make an impression? A. It did, and I will tell you why.

Q. I want to get the facts, so we can get somewhere and see how that happened, if it did. You get what I want? A. I will tell you right here —

Q. I don't want that. I want to know if it did make an impression? A. There is not a man in the prison does not know that information comes around that way; it is inconceivable and incredible, but it happens nevertheless.

Q. I would like to know and find out how it was, you being a new man there and with all these troubles on your shoulders and this feeling which you say, that there was some question of expecting trouble. A. I did not say anything of the kind. Please don't put words in my mouth.

Q. Well, you didn't have that feeling? A. I am denying that.

Q. You didn't have that feeling? A. I didn't say that I —

Q. Did you have that feeling? A. I say no, I didn't.

Q. This was an important proposition with regard to the management of the prisons, the discipline and so forth, and it would be a serious thing for you if people got information before you got it officially? A. Yes.

Q. Do you mean to tell me that in an important matter like that, that you did not pay any attention as to who the man was that got that information? A. Not the slightest. I will tell you why I did it. I went to the Superintendent of Prisons and I told him that would have to stop.

Q. You went to him. Where was he? A. In Albany.

Q. You came to Albany? A. Not precisely on this thing. I came up to make a report as to conditions. I said I want to fix the responsibility for this information getting into the prisons, and it comes from your office —

Q. The Superintendent of Prisons? A. I said the information comes from your office and it gets to our keepers and the prisoners before it gets officially to me. Superintendent Reilly says, "That has been the complaint of every prison man from time immemorial."

Q. Then this information — it was practically admitted by Superintendent Reilly that this advance information came from his office? A. Just a moment. That was in relation to the draft but I covered the whole subject. Every man in the prison knew that we would have a draft from Albany long before it was officially reported in the warden's office.

Q. Then what you have got in the paper, this statement— A. I haven't got it in the paper.

Q. — that is true, there was a leak somewhere? A. That is right.

Q. So it leaked to your employees before you got it? A. I don't —

Q. And you didn't investigate that leak? A. Did I say that?

Q. I am asking you? A. I did, yes.

Q. What did you do to investigate? A. You don't want me to tell my investigation. I will tell you of the result of my investigation.

Q. What did you do? A. I refuse to answer you on the subject of the investigation.

Q. You have some men you investigated and you won't tell who they are, you won't give their names? A. I have some investigation under way and will show the results.

Q. We want to know those things. A. You won't know.

Mr. Richards.— I will leave it to the Chairman.

The Witness.— Have you that right, to know what I am investigating?

By the Chairman:

Q. What is the nature of the investigation? A. Into the cause of the whole troubles. I have even called in the district attorney of Westchester county. Do you want me to go on and tell what we have done and what we have got?

By Mr. Richards:

Q. All we are after is information. A. That is all I am after.

Q. If you will give me those names confidentially it shall not reach the press, so that I can call those men. You can write them on a slip of paper or hand them to the Chairman and leave it remain in the hands of the Committee. A. I tell you what to do, get in touch with the district attorney.

By the Chairman:

Q. This is a private investigation of these persons? A. Yes, sir.

Q. Which pertains to them, in regard to the discipline of the institution? A. Positively.

Q. We don't want — A. You can get in touch with the district attorney.

Q. We don't want that. You needn't go any further. If you wait, you needn't have any embarrassment at all.

By Mr. Richards:

Q. You are not able to give the names of anybody? A. I am able, but I don't want to, and I don't think you want it.

Q. You are on the record a little different than that.

The Chairman.— You want the name of the man who gave the information first hand of what the Attorney-General's opinion was?

Mr. Richards.— Yes.

By the Chairman:

Q. Can you answer that question? A. I do not know that I can pick him out. I am not going to.

Q. Do you refuse to do that? A. I do.

The Chairman.— That is all.

The Witness.— You don't want it.

By Mr. Richards:

Q. I just want to know. I think you want to be fair, but you are on the record here as saying that you don't know his name. A. I said I didn't know the names of ten out of ninety-eight people.

Q. Didn't you intend to give the impression that you did not know the man? A. Know the man? I don't know his name now.

Q. Know the man. I want to have it clear on the record. Didn't you intend to give me the impression that you did not know the man? A. I didn't intend to give any such impression.

The Chairman.—As long as Mr. Clancy refuses to answer, and if he knows the man, then the Committee will find a way.

By the Chairman:

Q. Mr. Clancy, as to your own personal investigation at the present time, I do not think we want to know that. We don't want to embarrass you in clearing up a bad situation, but if there is a man under your jurisdiction who has information to give to the papers previous to the Attorney-General handing it out from his office, that is a fault which we want to find out? A. I did not say he gave it to the newspapers.

Q. We did not say you did. He didn't.

Q. As I understand from your answers —

Mr. Richards.— Mr. Clancy gave some of this and it may have been changed or altered.

The Witness.— I have found that the information gets into the prison before it gets into the main office, and that is the condition I want to correct. I am trying to correct it.

Q. That is what we are trying to do, and we are asking you to help us. If a condition is existing now in the Attorney-General's office whereby a subordinate gives out information in regard to an opinion — we are not holding that as true or not — but if information is being given out in the Attorney-General's office ten days or a week or something of the kind before that is officially transmitted to you, we want to know that. A. I said possibly a day or an hour. I didn't say anything about ten days.

Q. I didn't say you did? A. I didn't say that.

The Chairman.—As I understood the witness' answer, he said the information was received in the prison before it officially came from the Attorney-General's office.

Mr. Richards.— Mr. Clancy thinks it comes from the office of Superintendent of Prisons, not the Attorney-General.

The Witness.— The information is frequently given out from the Superintendent's office in Albany, is given to the newspapers,

and the first knowledge I have of it — for instance, the last draft, the first knowledge we had of that we got from the prison, I mean the inside.

Q. I understand what you mean. A. I complained of that the other day. I told the Superintendent of that the other day, and I think it ought to be corrected.

Mr. Richards.— That is all.

(Witness excused.)

Committee adjourned to July 31, 1913, at 10:30 a. m.

COUNCIL CHAMBER, CITY HALL,

NEW YORK, *August* 6, 1913.
10:30 a. m.

Pursuant to adjournment the Committee convened at 10:30 o'clock a. m.

Present:

For the Senate:
Hon. James J. Frawley, *Chairman,*
Hon. Felix J. Sanner,
Hon. Samuel J. Ramsperger.

For the Assembly:
Hon. Myron C. Smith,
Hon. Wilson R. Yard.

Appearances:
Eugene Lamb Richards, Counsel for the Committee.
Matthew T. Horgan, Secretary to the Committee.

Mr. Richards.— Mr. Chairman, we are ready to proceed now, if you are.

The Chairman.— I desire now, to have you read this letter and have it spread upon the record. Also the answer to that letter.

(The Chairman passes papers to counsel.)

The Chairman.— I might say this letter has already received publication through the press, but it is not a part of our records.

I therefore desire to have it spread upon the records, and after the answer to that letter, inviting the Governor.

Mr. Richards.— I read first the letter received by the chairman, headed:

"C. F. Murphy, 305 East 17th Street.

"New York, *July* 31, 1913.

"The Hon. James A. Frawley, Senate Chamber, Albany, N. Y.:

"Dear Sir.— This morning's statements report Governor Sulzer as saying that 'large contributions from contractors, the office holders, the special interests, and prominent Democrats interested in the campaign were made through the bagman direct to Mr. Murphy.'

"These insinuations are untrue. If Gov. Sulzer has any information as to misconduct on my part relating to campaign contributions I request him to furnish it to your committee, and I will appear for examination at any time.

"Yours truly,

"(Signed) CHARLES F. MURPHY."

I read the reply to that letter as follows, signed by the Chairman:

"*August* 6, 1913.

"Hon. William Sulzer, Executive Chamber, Albany, New York:

"Sir.— There has been addressed to the Chairman of this Committee a letter from Mr. Charles F. Murphy, as follows:

"'305 East Seventeenth Street.

"'New York, *July* 31, 1913.

"'The Hon. James J. Frawley, Senate Chamber, Albany, N. Y.:

'Dear Sir.— This morning's papers report Governor Sulzer as saying that "large contributions from contractors, the office holders, the special interests, and prominent Democrats interested in the campaign were made through the bagman direct to Mr. Murphy.'

"'These insinuations are untrue. If Gov. Sulzer has any information as to misconduct on my part relating to campaign contributions I request him to furnish it to your committee, and I will appear for examination at any time.

"'Yours truly,

"'(Signed) CHARLES F. MURPHY.'

"This letter puts at issue a public statement made by you with reference to campaign contributions to others than the State Committee and yourself.

"This Committee invites you to appear before it and to furnish it at once with any such information in your possession, together with the names and addresses of any witnesses, who can give sworn testimony in support of your charge, in order that the matter may be probed to the bottom, and so that if any such evidence is furnished Mr. Murphy may be called before the Committee.

"Yours very truly,

"JAMES J. FRAWLEY,

"*Chairman.*"

Mr. Chairman.— Before proceeding with the evidence, I would like to spread upon the record a telegram which was sent yesterday by me after a consultation with — to the Reverend O. R. Miller, 61 State street, Albany N. Y. It is as follows (reading):

"*August* 5, 1913.

REV. O. R. MILLER, *The Reform Bulletin,* 61 *State street, Albany, New York:*

"The Joint Legislative Investigating Committee at its sessions this week in New York will hear any sworn testimony you may give on the alleged charges that certain senators approached improperly a person or persons regarding a bill affecting mercantile agencies. We also request the names and addresses of any witnesses who will testify to their knowledge respecting the same. Wire answer to Eugene Lamb Richards, counsel, 15 William street, New York city.

"JAMES J. FRAWLEY,

"*Chairman.*"

I want to say to the Chairman, that so far I have received no reply to that telegram.

Mr. Chairman, at the last session of the Committee in Albany, on Wednesday of last week, the day of the hearing of the Committee, and the production of certain evidence with regard to campaign contributions made to Governor Sulzer, Governor Sulzer issued a statement stating in substance that the matter of his campaign contributions would seem — had been attended to by other persons, and also in substance that he was busy away from the city of New York when the campaign contributions were received.

In view of that statement which he gave to the press last Wednesday, which I have described, Mr. Chairman, published and issued from the Executive Chamber, the substance of which I have, I think, fairly quoted, I wish to have spread upon the record the former statement of Governor Sulzer made within a few days after he was nominated, and before he entered upon the campaign a statement which was made by him at the Democratic headquarters, and appeared in all the papers of the city of New York.

First, on the evening of October 7, 1912, and in the morning papers of October 8, 1912, and I quote from of the papers showing substantially the same statement. They are in all of the papers of those dates. This is from an evening paper of Monday, October 7, 1912. It is headed, "Sulzer visits Headquarters." And it begins (reading): "Representative William Sulzer visited Democratic Headquarters at the Fifth Avenue Building to-day to talk with Chairman McAdoo and Senator O'Gorman." Then follows some description, and then comes this statement:

> "I am going to follow the state road to Albany, that is, through the people. If I go to Albany, it will be by that straight road. I trust the people and the people trust me, and I am going out to talk to them, and I will have no campaign manager, no collector of funds and no publicity agent."

The same, in substance, was stated, as I said, in all the press of the following morning, October 8, 1912. This is taken from one of the morning papers of the City of New York, and it is headed:

"My headquarters are under my hat."

Because he has no use for a campaign manager or money collector. Will appeal direct to the people. This is in quotation:

"My Headquarters are under my hat," said William Sulzer. I never had any use for a campaign manager, or a campaign money collector, and I shall not have any use for them during this canvass. I shall deal with the people direct."

And another one, simply as a specimen, containing this general statement authorized by him, taken by the Press, evidently correctly in which he says, in another morning paper:

> "Governor William Sulzer, Democratic nominee for Governor, called at Democratic National Headquarters yesterday to talk over the situation. There would be special

headquarters for him, Mr. Sulzer said, but he would join the headquarters of the Democratic State Committee, at No. 1 West 34th street. And in the past campaigns, he added, with a smile, he would have no manager, publicity agent or collector."

It was also stated in the formal statement of the Governor on last Wednesday that he was away. The reason that he did not know of the two particular contributions that were proven on last week, Wednesday, of Mr. Elkus and Mr. Schiff, was that he was away campaigning. And I offer in evidence the itinerary of Mr. Sulzer of the State Committee showing that he was here in the City Committee until the 18th day of October, and I call the Chairman's attention that upon the record it appears the Elkus check was sent and received on the 5th of October, and the Schiff check on the 14th of October. And I want to offer this itinerary in evidence so that it may be a matter of record.

The Chairman.— Mark that.

(The paper offered in evidence was marked Exhibit No. 42, of this date).

The Chairman.— Do you desire that spread upon the record?

Mr. Richards.— I would not desire to have it spread upon the record, but I desire to have it introduced in evidence. That is the best evidence of the trip. The dates show in this paper, if the Chairman, pleases, that he went on the 18th of October, was gone for the 18th and 19th, which was Friday and Saturday, and came back on the Sunday following, which was the 21st of October, and started on the trip up State, returning on October 30th, or 31st, remained here until the campaign closed.

Now, a little out of order, in order to satisfy the convenience of a witness, Mr. Chairman I wish to call Mr. Gordon.

Alexander Gordon was called as a witness, and being duly sworn, testified as follows:

Examined by Mr. Richards:

Q. Mr. Gordon, what is your full name? A. Alexander Gordon.

Q. And you are a lawyer? A. I am.

Q. And a member of the firm of — A. The firm of McCoombs, Ryan & Gordon.

Q. Of which firm the Honorable F. McCoombs, the Chairman of the National Democratic Committee, is the senior member? A. That is correct.

Q. You are familiar with Mr. McCoombs' handwriting? A. I am.

Q. And have you produced under a subpoena a certain check or piece of paper which I show you? A. I have.

Q. And will you state whether or not you obtained that from the files of the papers of Mr. McCoombs? A. I obtained that from the files of Mr. McCoombs, William F. McCoombs.

Q. Are you familiar with the handwriting of William F. McCoombs? A. I am.

Q. Does this check, or paper, which I show you signed by him, signed in his own handwriting? A. That check is in his own handwriting.

Q. It is? A. Yes, sir.

Mr. Richards.— That is all, Mr. Gordon. Very much obliged.

(Witness excused.)

Mr. Richards.— I offer in evidence this paper which has been identified by the witness.

(The statement was received in evidence and marked Exhibit 43 of this date.)

Mr. Richards.— I read this check, Mr. Richards, for the record (reading):

"New York, *October* 9, 1912.

Guarantee Trust Company of New York:

Pay to the order of William Sulzer five hundred dollars ($500).
William F. McCoombs."

Endorsed with a rubber stamp, "William F. Sulzer, L. A. Sarecky."

The first endorsement is: "Pay to the order of the National Bank of Commerce, October 11th, 1912. The Mutual Alliance Trust Company of New York, 35 Wall Street.

The next endorsement: "Received payment through New York Clearing House, October 11, 1912. Receiving Teller. Endorsement guaranteed. National Bank of Commerce of New York."

And I call the Chairman's attention and the attention of the

Committee that this was on October 9th, the day after this authorized interview which I have just read from the papers with regard to personal campaign contributions, the statement made at National Headquarters.

The Chairman.— What did you say that was, Mr. Richards?

Mr. Richards.— That was on the 7th.

The Chairman.— A rubber stamp?

Mr. Richards.— A rubber stamp, "William Sulzer." Then, in handwriting "L. A. Sarecky."

Is there anybody here, an officer of the Mutual Alliance Company?

Mr. Hornby.— Yes, sir.

Mr. Richards.— Will you kindly take the stand?

Frederick H. Hornby, called as a witness, being duly sworn, testified as follows:

Examined by Mr. Richards:

Q. Where do you live? A. I live at Jamaica, Long Island.

Mr. Richards.— So that it may be perfectly clear as we go along, I want to call the Chairman's attention that this check for $500 is not in the statement sworn to by William Sulzer, verified November 13, 1912, and which was put in evidence at the hearing in Albany.

Q. And are you connected with the Mutual Alliance Trust Company? A. I am.

Q. In what capacity? A. Assistant-secretary.

Q. And were you served with a subpoena, or your company served with a subpoena to produce certain records and papers? A. Yes, sir.

Q. Have you got that subpoena with you? A. Yes, sir.

Mr. Richards.— I offer this subpoena in evidence, the subpoena of the Committee which calls for the production of the following papers:

"All original letters, journals, cashbooks and other books of entry showing the account of Louis A. Sarecky, with the Mutual Alliance Trust Company of New York from the first day of September, 1912, to the first day of January, 1913, showing all

deposits in and the payments out of said account; also all deposit slips filed with deposits to said account in said Trust Company between said dates; and also all letters or communications in writing addressed to said company relating to giving any information on the subject of said accounts of Louis A. Sarecky at any time."

Mark that, please.

(The subpoena was received in evidence and marked Exhibit 44 of this date.)

Q. In pursuance of that subpoena, have you produced certain papers? A. I have.

Q. And what have you produced in answer to that, generally? A. I have produced as a matter of convenience, a certified copy or transcript of the account during the period named by you in your subpoena, from September 1, to January 1, 1913.

Q. And you have done that in place of the books? A. Yes, sir.

Q. Because, of course, your company is using the books constantly, and of course, they ought to remain at the office? A. Yes, sir, exactly.

Q. As a matter of convenience, you communicated with the Chairman, did you not, and he gave you permission to file a sworn transcript in place of the actual books? A. We have.

Q. Referring to this paper, Mr. Hornby, on the left hand side, does that include deposits on the left hand side, and the payments out on the right hand side? A. On the right hand side of the paper are the credits.

Q. Yes. These are the payments out, these deposits in the account? A. These deposits in the account; the other side, on the left hand side are separate items paid by us against the account.

Q. Yes. Exactly, and then on the right hand side are the deposits? A. Exactly.

Q. The credit account, and on the left hand side are the debtor accounts, the one that you have charged against this account? A. Yes, sir.

Q. Will you just tell us — are you able to tell us here what the balance was in the account on October 1, 1912? A. I should say from putting down the two columns to that point — (indicating)—

Q. Yes. A. To that date on each side, and subtracting, you could find out what the balance is.

Q. We would have to figure out ourselves. I thought possibly you could tell us right out? A. No.

Q. You have also produced certain deposit slips, have you not? A. I have.

Q. Are those all the original deposit slips of deposits on this account for the period which you have been called upon to produce? A. They are.

The Chairman.— Do you want to offer those, Mr. Richards?

Mr. Richards.— Yes, I want to have those marked. I offer these in evidence, and then I will examine the witness about that later.

(The slips referred to are received in evidence and marked Exhibit 45 of this date.)

Q. Just look at that and see if you want to verify those figures? A. I would say that was right.

Mr. Richards.— The witness says on October 1st, the date of the Democratic Convention at Syracuse, the balance in the account of Louis A. Sarecky was $190.05.

Q. And excluding the items after November 7th — no, after November 14th, will you just tell us how much was deposited between the first day of October and the 12th day of November? A. The total?

Q. From the first day of October, and including the 12th day of November, a week after the election, what was the amount that was deposited, the total amounts deposited between those dates in the account of Louis A. Sarecky? A. The total amount of deposits in the account of Louis A. Sarecky between the first day of October and the 12th day of November, inclusive, was $12,405.93.

Q. You find under date of a deposit slip which has been offered in evidence on October 15th, a credit of $2,500, do you not? A. Yes, sir; I do.

Q. Can you state by looking at the check which I show you, Exhibit 35, what date that was credited? A. That check was credited to the account of Louis A. Sarecky on October 15th.

Q. That is the date of the deposit slip, is it not? A. Yes, sir.

Mr. Richards.— That is the check of Mr. Schiff, Mr. Chairman, that has been referred to.

Q. I ask you to look at Exhibit 43 and the deposit slip of October 11, 1912, and state whether or no that check was not

credited to the account of Sarecky on the 11th of October, that is the check of William F. McCoombs for $500? A. Yes.

Q. That is the last item in that deposit slip of October 11th? A. Yes, sir; the check was credited to his account on that day.

Q. Now, have you produced any other papers in answer to that? A. I have.

Q. What other papers have you produced? A. (Witness produces paper.)

Mr. Richards.— I offer in evidence the following letter headed: "Committee on Foreign Affairs, House of Representatives, Washington, D. C."

Then there is a number — it says on the corner: "Sixty-second Congress, William Sulzer, New York, Chairman."

The letter is headed as follows:

"En Route, *October* 22, 1912.

"Mutual Alliance Trust Company:

"Gentlemen.— This is to inform you that I have authorized my private secretary, Mr. Louis A. Sarecky, to endorse my name to any checks donated to my campaign fund and to deposit same to his credit.

"Very truly yours,
"WILLIAM SULZER."

Mr. Richards.— Mark that, please.

(The letter was received in evidence and marked Exhibit 36 of this date.)

Q. Any other papers that you have got there? A. That letter is our authority, which we would like to retain in our files, subject to your call at any time. I have prepared a certified copy to answer the same purpose for your investigation.

Mr. Richards.— Yes. That, of course, should be very satisfactory, and I suggest that this one copy produced by the witness be substituted in place of the original, with the understanding that the original can be obtained by this Committee at any time.

The Chairman.— All right, grant it.

(The substituted copy was received in evidence and marked Exhibit 46 of this date.)

Q. Are there any other letters or papers relating to this account? A. That was all the correspondence we were able to find in our files. We have had proper search made by the clerk, and that is all that has been located.

(Witness excused.)

Mr. Richards.— Mr. Simon, will you take the stand, please.

Robert E. Simon was called as a witness and being duly sworn, testified as follows:

Examination by Mr. Richards:

Q. Mr. Simon, where do you reside? A. 320 West 87th street.

Q. And are you connected with the corporation of Henry Morgenthau & Company? A. Yes, sir.

Q. What is your position? A. Vice-president.

Q. Vice-president, and Mr. Morgenthau is in Europe now, is he not? A. Yes, sir.

Q. And he has been away for some time? A. Yes, sir.

Q. Were you subpoenaed to produce a certain check of Mr. Morgenthau's to the order of William Sulzer? A. Yes, sir.

Q. Have you produced it? A. Yes, sir.

Q. Will you please let me have it? A. (Witness hands check to counsel.)

Q. You are familiar, of course, with the signature of Mr. Morgenthau? A. Yes, sir.

Q. And the paper that you have produced or the check, is signed by Mr. Morgenthau, is it not? A. Yes, sir.

Q. In his handwriting? A. Yes, sir.

Mr. Richards.— I offer that check in evidence.

(The check was received in evidence and marked Exhibit 47 of this date).

Q. You have produced this from the papers of Mr. Morgenthau, or from the papers of your office? A. The papers of Mr. Morgenthau in our office.

Q. His personal papers? A. His personal papers, yes.

Mr. Richards.— I want to read this check and the endorsement, Mr. Chairman.

The Chairman.— Proceed.

Mr. Richards.— (Reading): "No. 1344,

New York, October 5th—"

That is the date of the Schiff check — no, the date of the Elkus check. Excuse me,— "1912.

Guarantee Trust Company of New York,
28 Nassau street.

Pay to order of William Sulzer one thousand dollars ($1,000).
H. MORGENTHAU."

And on the back of this check in handwriting, "William Sulzer."

Then, this endorsement, "Pay to the National City Bank of New York or order. The Farmers Loan & Trust Company. Augustus V. Healey, Vice-president and Secretary."

Then, underneath that, "Received payment through the New York Clearing House October 8th, 1912. Prior endorsement guaranteed. The National City Bank of New York. A. Cavanaugh, Cashier."

Q. Mr. Simon, will you leave this with the committee to be returned on demand? A. Yes, sir.

Mr. Richards.— Thank you, very much. That is all.

(Witness excused.)

The Chairman.— I would give Mr. Simon a receipt for that.

Mr. Richards.— Mr. Horgan, the Secretary of the Committee, will give you a receipt.

Mr. Simon.— Thank you.

Sarah McKenzie was called as a witness, and being duly sworn, testified as follows:

Examination by Mr. Richards:

Q. Where do you live, Miss McKenzie? A. Yonkers.

Q. And are you connected with firm of J. Lynn & Company, the John Lynn Company? A. Yes.

Q. Is John Lynn abroad? A. Yes.

Q. Were you subpoenaed to produce a check of Mr. John Lynn, or of the firm to the order of William Sulzer? A. I was.

Q. Have you produced it? A. (Witness produces paper.)

Q. Are you familiar with the handwriting of Mr. John Lynn on the check? A. Yes.

Q. And that is his handwriting? A. Yes.

Q. This is not one of the regular checks? A. Not one in his regular bank book, no.

Q. Not one in his regular bank book? A. No.

Q. And his business address is 48 Bond Street? A. Yes.

Mr. Richards.— I offer that check in evidence.

(The check was received and marked Exhibit 48 of this date.)

Mr. Richards.— I will read that to the Committee. I want to emphasize the fact, although, of course, it is a fact, that the thousand dollar check from Mr. Morgenthau is not in the statement from Mr. Sulzer. This check reads on its face as follows:

"New York, *October* 10th, 1912.

"Guarantee Trust Company, New York."

That is filled in in handwriting.

"Pay to the order of William Sulzer five hundred dollars ($500).

JOHN LYNN."

That appears to have been certified, October 16th; October 16, 1912, "payable through New York Clearance House," and then the signature of the certifying check of the bank. On the back is this indorsement in handwriting:

"William Sulzer. Pay to the order of the Manhattan Company, New York. Boyer & Griswold Company," and then, "Manhattan Company. Received payment October 16th."

It appears that whoever got that check, from those indorsements, got the cash and evidently turned it over to Boyer, Griswold & Company.

From the documents that have already been placed in the possession of the Committee, Mr. Chairman, I do not think there is any question at all but the handwriting of William Sulzer on the back of this check is the original, genuine handwriting of the Governor himself, and that is the check that was cashed. There is a receipt for that check, Miss McKenzie, and it will be returned as soon as we have been able to have it photographed.

(Witness excused.)

Assemblyman Yard.— Does that item appear in the statement?

Mr. Richards.— I want to say to the Committee that this item, Mr. Chairman, does not appear in any statement filed by the Governor.

Is there anybody here from the Farmers' Loan and Trust Company?

Mr. Gibbs.— Yes.

Edwin Gibbs was called as a witness, and being duly sworn, testified as follows:

Examination by Mr. Richards:

Q. Mr. Gibbs, you are connected with the Farmers Loan and Trust Company? A. Yes, I am.

Q. In what capacity? A. Assistant Secretary.

Q. And were you served with a subpoena by this Committee to produce certain books and papers and certain deposit slips? A. Of the Trust Company?

Q. The Trust Company? A. Yes.

(Witness produces papers.)

Mr. Richards.— I offer in evidence a subpoena issued to the Farmers Loan and Trust Company, calling for the production of all original letters, journals, cash books and other books of entry showing the account of William Sulzer with the Farmers Loan and Trust Company from the 1st day of September, 1912, to the 1st day of January, 1913; also, showing all deposits in and payments out of said accounts; also, all deposit slips filed with deposits to said account in said Trust Company between said dates, and also all letters or communications in writing addressed to said company relating to giving any information on the subject of said account of said William Sulzer at any time.

Mark that, please.

(The subpoena was received in evidence and marked Exhibit 49 of this date.)

Q. Mr. Gibbs, have you pursuant to that subpoena, produced certain books or papers, that is not the original books, but a transcript of the account? A. I have produced a transcript to which I am ready to swear.

Q. That is correct. Will you just tell us what the total accounts in that deposit were between the first of September last and the first day of January? A. $21,414.89 — May I correct that statement?

Q. The witness wants to correct that statement. It is a little more? A. $24,395.31.

Q. What was the balance which William Sulzer had on account on the 1st day of January, 1913? A. $22,527.47.

Mr. Richards.— There appears to be two large deposits in October — one on October 8th and another on October 10th.

Q. Will you just tell us, just for the record, what the total of those two deposits for those days were? A. $7,900.

Q. $7,900. A. On October 8th and October 10th.

Q. On October 8 and October 10, 1912? A. October, 1912.

Q. Now, have you the deposit slips of that account? A. I have.

Q. Will you produce that, please? A. Yes, sir. (Witness produces deposit slips).

Q. You are familiar with the handwriting of William Sulzer himself, are you not? A. No, I am not.

Q. Well, some one in your bank or trust company must be? A. We have Mr. Sulzer's signature on file, which we could verify.

Q. I would like to have that signature produced here? A. All right.

Q. Will you have it verified? A. Yes.

Q. I show you one deposit slip, deposited by one William Sulzer — I don't suppose you are an expert on handwriting, but you must be used to it in your bank, the handwriting on Exhibit 4, the check for $500 of John Lynn, and the handwriting of the deposit slip of October 8th, are not those in the handwriting of the same person? A. I should say they were.

Mr. Richards.— That is all, thank you very much.

(Witness excused.)

Mr. Richards.— I offer in evidence the deposit slip of October 8th first. October 8th, bills, that is cash, Mr. Chairman; $1,400, check; $1,000; another one for a thousand dollars; another one for a thousand dollars; another one of $500; another one of $250, and another of $250; total, $1,400 on October 8th.

Q. Will you look at the numbers in front of those checks and just tell us what banks, if you can, what banks those represent; these are banks — each bank clears has a number, has it not? A. Yes.

The Chairman.— Before you proceed, will you kindly have that slip marked in evidence?

Mr. Richards.— Yes. Will you just mark that, please?

(The slip was received in evidence and marked Exhibit 50 of this date.)

Mr. Richards.— Mr. Chairman, the witness is ready to proceed.

The Chairman.—All right, proceed.

The Witness.— The first check, $1,000, the slip indicates was drawn on the Bankers' Trust Company.

Q. The Bankers' Trust Company? A. The second check of a thousand dollars, the slip indicates that was drawn on the Guarantee Trust Company; the third check for $500 was drawn on the Non-Clearing House Bank, not indicated here, what the check was. The fourth check for $250 was drawn on the Equitable Trust Company. The fifth check for $250 was drawn on the People's Trust Company of Brooklyn.

Mr. Richards.— Now, let me have the Morgenthau check. I show you a check to the order of William Sulzer, Exhibit 6, on the Guarantee Trust Company, and ask you whether or not, after looking at this deposit slip which you say appears to be in the handwriting of the person who signed, another endorsement, whether that is not one of the checks which was deposited with this deposit slip? A. The Clearing House number on the deposit slip would indicate that this check for a thousand dollars was deposited in Mr. Sulzer's account on the 8th of October.

Q. And that corresponds to the Clearing House number of the check which I have just shown you? A. One of the thousand dollar checks.

Q. One of the thousand dollar checks. I show you another deposit slip of October 10th, and ask you to compare the handwriting on the slip of October 8th, with the slip of October 10th, and tell us whether or not that is not in the same handwriting, the words "William Sulzer." A. I should say they were both signed by the same person.

Q. They are very, very similar, are they not? A. Yes.

Q. Quite identical? A. Yes.

Mr. Richards.— I offer that deposit slip in evidence, October 10th.

(The deposit slip was received in evidence and marked Exhibit 51 of this date.)

The Chairman.— You are not going to prove that by Mr. Gibbs as a handwriting expert, are you?

Mr. Richards.— Oh, no, just simply for the record, as I go along. We will verify these signatures as soon as Mr. Gibbs is through. I will let him get it verified.

I offer, especially, in evidence, although I am going to offer all of these deposit slips, I want the Committee's attention called especially to this —

The Chairman.— Has that been marked in evidence?

Mr. Richards.— "Exhibit 51, deposited by William Sulzer in the Farmers' Loan & Trust Company, New York, October 12th, 1912, bills $2,500, check $1,000."

Q. Will you tell us by looking at that deposit slip what bank or trust company the check for $1,000 was on? A. The Bank of Manhattan Company.

Mr. Richards.— I would like to have the stenographer mark this in evidence.

(The deposit slip was received and marked in evidence Exhibit 52 of this date.)

The Chairman.— You want a receipt for these things you have produced?

The Witness.— Yes, sir, Mr. Richards will let me have one.

The Chairman.— Mr. Horgan, will you kindly draw a receipt for Mr. Gibbs for these deposit slips?

Mr. Richards.— What is that, Mr. Chairman?

The Chairman.— I want Mr. Horgan to give Mr. Gibbs a receipt for those deposit slips.

Mr. Horgan.— All right.

Mr. Richards.— We will have it ready for you when you come back.

Mr. Richards.— I have offered in evidence all these deposit slips, and they will have to be analyzed, but just for the moment, I want to call the Committee's attention to the fact of the deposit of large sums of cash, one on December 16, 1912, bills,

$1,100; another one on December 18th, bills, $1,000; another one on December 28th, bills, $3,000, all cash; a total of $5,100 cash during those dates.

Now, in view of the evidence that has been given here, Mr. Chairman, and at the hearing in Albany on last Wednesday with reference to the deposit in the Mutual Alliance Trust Company, which was kept by Mr. Sarecky, he refused to answer the questions of the counsel to the Committee, as you are aware; and in view of the fact that the statement filed by Mr. Sulzer showing about sixty-eight contributors aggregating about $5,464, I call the Committee's attention to the fact during the period of the campaign from nomination to election in the Mutual Alliance Trust Company, from the day when the nomination was made until election day, was $12,000, and I want to show how many checks and their size that went into this account, and just how many there was in place of sixty-eight, as claimed.

On October 5, the following checks: Check for $100, check for $10, check for $5500; that is three checks on that date.

On October 11th the following checks:

Check for $100, one for $50, another one for $50, another one for $250; another one for $225, another one for $250, another one for $50, and another one $500, making on that date eight checks. The total on that day was $1275 on October 11th.

On October 8th — just so as not to burden the record with the details of these checks, I will count the checks. October 8th, seventeen checks, aggregating $890. October 15th, ten checks aggregating $3350, and on October 19th, fifteen checks, aggregating $1010. On October 19th, a check for $25.

On October 21, six checks, aggregating $535. On October 24, five checks aggregating $910. On October 26, seven checks, aggregating $566.77. On October 30, four checks aggregating $147. And on November 4th, ten checks, and a hundred dollars in cash, aggregating $147 dollars. And on November 4th, ten checks and a hundred dollars in cash, aggregating $145.33. On November 7th, $950, and in checks, five checks, aggregating $525 more, making a total on November 7th of $1475.

On November 12th — this comes within a week after election day — three checks for four hundred dollars.

I wish to say that the checks — this is the check itself of November 7th,— which was after election shows the names of some of the contributors so that after election, was of campaign contributions, and evidently the same thing is true of the follow-

ing ones after. That makes a total of ninety-four checks, besides a very considerable sum of cash, something about $2,000, I think; ninety-four checks in place of sixty-eight.

Now, is there a gentleman here from the Fuller & Gray's firm?

Mr. Joseph H. Beall.— Mr. Chairman, and gentlemen of the Committee: I appear on behalf of Mr. Arthur L. Fuller, individually, who is here, and on behalf of the firm of Fuller & Gray, of which he is a member. We enter a formal objection to his being called under a subpoena in that the matters with respect to which he is subpoenaed are beyond the scope of the resolutions empowering this Committee to investigate.

The Chairman.— Well, your objection will be noted, and denied.

Mr. Richards.— Mr. Chairman, I want to state frankly, unless the Chairman desires to hear it, of course, if there is some evidence that is improper, that the Chairman will rule it out.

The Chairman.— Yes, sir.

Mr. Richards.— I want to call this man for the purpose of showing some transactions which we expect to connect with the contributions and moneys and the motive for not telling about campaign contributions; the demand for moneys for stock transactions during the period of the campaign.

Mr. Beall.— We have no interest in any quarrel, and we do not wish to embarrass in any way the Committee, and I have instructed Mr. Fuller to answer the subpoena, and to answer the questions, if you insist upon it, but we do not believe that the transactions of the Governor of this State, or anybody else with our consent should be made public property.

The Chairman.— If Mr. Richards can show that certain moneys were collected during this campaign for the purposes of campaign purposes, and diverted into your office, we feel that it is within our scope.

Mr. Beall.— I agree with you on that.

The Chairman.— And if you can satisfy Mr. Richards and the Committee that none of those moneys were collected for campaign purposes, we do not want to know it.

Mr. Beall.— It seems to me that the burden of that is on you to show that it did.

The Chairman.— That is one reason why we are here.

Mr. Beall.—I simply asked, Mr. Chairman, that my objection be noted.

The Chairman.—All right.

Arthur L. Fuller, a witness called by the Committee, having been first duly sworn, testified as follows:

By the Chairman:

Q. What is your full name, please? A. Arthur Fuller.

Examination by Mr. Richards:

Q. Mr. Fuller, where do you reside? A. My residence is 543 East 24th street, Brooklyn.

Q. What is your business? A. Stock broker.

Q. Are you a member of any stock brokerage firm? A. I am a member of the firm of Fuller & Gray.

Q. And does that firm do a business in connection with purchases and sales on the Stock Exchange in New York? A. Yes, sir.

Q. And has it a branch — where is its office? A. 71 Broadway.

Q. Has it branch offices? A. Yes, sir.

Q. Will you just tell us where those branch offices are? A. 44 Court street, Brooklyn; 501 Fifth avenue, New York; 36 South Broadway, Yonkers.

Q. Have you connected with your concern a gentleman by the name of Colwell? A. No, sir.

Q. Do you know such a gentleman? A. I do.

Q. Mr. Frederick L. Colwell, of Yonkers? A. I know Mr. Colwell.

Q. What is his relationship to your firm, if any? A. None whatever.

Q. Just simply a customer? A. Not even that.

Q. Does he do business in your office? A. Not that I know of.

Q. Well, haven't you an office with him? A. He comes in our office and receives his mail there.

Q. Does he use the same — isn't his name under the same number of the telephone book as your concern? A. I couldn't say as to that; I never have noticed it.

Q. Well, how long has he occupied this position of being in your office, or getting his mail there? A. Well, probably, since the first of February.

Q. Since the first of last February? A. Yes, sir.

Q. And you have known him for some time before that, have you not? A. Oh, yes.

Q. Has Governor Sulzer been in your office? A. Not to my knowledge.

Q. You have never seen him, then? A. No, sir.

Q. Have you an account on your books known as 500? A. Yes, sir.

Q. Have you been — have you got a subpoena that was served upon your firm? A. (Witness produces subpoena.)

Q. It appears by the telephone book, Mr. Fuller, that Mr. Colwell's telephone and yours are the same, Rector 8776; is that right? A. That is our telephone number, Rector 8776, yes, sir.

Q. And, of course, his name could not be put in the book under your telephone number, and under your call without your consent, or the consent of your firm? A. Exactly.

Q. Now, you have been subpoenaed to produce books of account showing purchases or sales of stock and the profits of margins or withdrawals of money from William Sulzer from the first day of January, 1912, to date, and also with reference — and the same with reference to a certain account or designation known as Account 500. Have you produced a transcript of that account? A. I have the account of 500 in our books here.

Q. Will you please have your books produced?

The Chairman.— Mr. Richards, you propose to confine this within the time of these campaign contributions?

Mr. Richards.— Yes, or just before —

The Chairman.—(Interrupting.) Nothing before that, or nothing after?

Mr. Richards.—(Continuing) Or just after.

Mr. Beall.— Consider my objection as being renewed, please, Mr. Chairman.

The Chairman.—Yes, sir.

(The witness here produced a book of account.)

Q. Now, will you turn to account 500? A. This is account 500. (Witness indicates in book).

Q. I won't look at anything except that. A. There is account 500. (Indicating).

Q. When was it opened, December, 1912? A. October 21, 1912. Q. When was that account No. 500 opened? A. October 21, 1912.

Q. October 21, 1912. That is between the nomination of William Sulzer and election day, is it not? You know that, do you not, Mr. Fuller? A. (No answer).

Q. It is between the first of October and the 5th of November, 1912? A. Yes, sir, October 21, 1912.

Q. Yes, and how long did it continue? A. (After examining book). It still continues; it is not closed.

Q. It has not been closed. And what transactions occurred on that account in the way of purchases or sales of stocks? A. On October 21, there were 100 shares of stock bought; on October 21 —

Q. Now, just wait a minute. On October 21, there were 100 shares of stock bought. What was that stock? A. 3 C's.

Q. That is — A. (Interrupting) Cincinnati, Chicago —

Senator Sanner.— Cincinnati, Cleveland and Chicago.

The Witness.— The Big Four; it is a subsidiary of the New York Central.

Q. It is a subsidiary of the New York Central, isn't it? A. Yes, sir.

Q. Now, what else was bought in the month of October, 1912? A. 200 shares is all of these 3 C's.

Q. Was there any other stock bought in that month? A. No, sir.

Q. Now, what deposits were made of cash in the month of October, 1912? A. On the 22d, there was a deposit of $1,500.

Q. Cash, that was, was it? A. Cash of a thousand dollars.

Q. And this cash of a thousand dollars, when was that? A. On the same day.

Q. Those two deposits were on the same day, were they? A. According to this book, yes, sir.

Q. That was all the stock that was bought in that account? A. That is all.

Q. And you say it is still open? A. Still open.

Q. Has any of that stock been delivered to any one? A. Yes, sir, it has been delivered.

Q. It has been delivered? A. Yes, sir.

Q. To whom? A. My books don't show, and I really don't know; that is, this ledger doesn't show; I don't really know.

Q. Your books show — where did you get the information then, that the stock was delivered? A. We have a record of who the stock was delivered to on our office copy press, of course; we have a receipt.

Q. You have such documents in your office? A. I have a receipt for the stock, yes, sir.

Q. Do you remember seeing that receipt? A. I do.

Q. You remember who that receipt is signed by? A. F. A. Coe, Frederick A. Coe.

Q. Now, who is he? A. He is a man in our employ.

Q. Where is he employed? A. Yonkers.

Q. Yonkers; he is the Yonkers manager? A. No, sir; he is a clerk.

Q. Just clerk? A. That is all.

Q. And who is your Yonkers manager, or who is in charge? A. A man by the name of Hart.

Q. Yonkers is where Mr. Colwell lives, is it not? A. I believe he lives in Yonkers.

Q. Haven't you anything in your office that shows who is the person who is responsible for account No. 500? A. I haven't, no, sir; I am the board member of the firm, and I inquired into the business, and they said — to my partner — and they said it was a cash transaction and the stock paid for, and they made no further inquiry.

.Q You mean to say when it was paid for — A. (Interrupting) Was to be paid for in cash outright. In other words, we were not to carry it on margin.

Q. But you say this account is still open? A. Yes, sir, it has a debit of $14 and some cents.

Q. That is the way that it is open? A. That is the way that it is open.

Q. When was the stock delivered according to your books? A. There were 200 shares delivered on October 31.

Q. October 31. And your records show, as far as you are concerned, that that stock was delivered to F. A. Coe, who is a clerk in that office? A. Yes, sir.

Q. How long have you known Mr. Coe? A. Twenty years.

Q. And does he do business in your Yonkers office? A. Not to my knowledge.

Q. Well, what has your acquaintance been with him? A. Well, Mr. Colwell used to be a member of the firm of Harris & Sewell, and I knew him well.

Q. He was formerly a member of the firm? A. Not of my firm, no.

Q. Harris & Sewell is the firm in which one of your brothers and your father are members? A. Yes.

Q. Where is their place of business? A. New York, 45 Broadday, New York.

Q. New York, 45 Broadway. There is a rule in the Stock Exchange which prevents Stock Exchange houses from employing solicitors, is there not? A. Yes, sir, there is.

Q. So that you couldn't — it wouldn't be right for any one to either have, or say that they have a person who is soliciting business? A. Yes, sir, that is right, they cannot be employed for that purpose.

Q. Exactly. But you know, do you not, that Mr. Colwell has brought customers, and brought business into your office? A. I do not, no, sir.

Q. You don't know that? A. No, sir.

Q. Would some one in your firm know that? A. They might.

Q. What was the market value of that stock that was purchased during the campaign of 1912? A. You mean at the date at the price that this was purchased at?

Q. Yes. A. Purchased 100 shares at 60 and 100 at 58.

Q. That made a total of how much money? A. $11,800 without the commission.

Q. And when was the — cash was paid for that? A. Yes, sir, at different times.

Q. At different times, but I want to have you give me the dates when the stock was physically paid for and delivered? A. On the 22d, there were $2,500 cash.

Q. 22d of October? A. 22d of October. On the 28th, there was $5,000 in cash; on the 31st there was $8,825 in cash. That is during October, when that two hundred shares was bought.

Q. So that it was all paid for and the stock was delivered before the first of November? A. The stock was delivered October 31.

Mr. Richards.— I think that is all. That is all, Mr. Fuller. I am very much obliged to you.

Mr. Beall.—You don't want those books, do you?

Mr. Richards.— No.

(Witness excused.)

Mr. Richards.— Mr. Gibbs, will you take the stand?

Edward Gibbs, recalled for further examination, testified as follows:

Examination by Mr. Richards:

Q. Mr. Gibbs, have you now brought the deposit slips or the signature slip of William Sulzer? A. I have here the card against which was paid Mr. Sulzer's checks.

Q. Can you state whether or not this is in his handwriting? (Counsel passes paper to witness.) A. (After examining) The slips are apparently carelessly written, but I should say, from my experience with signatures, that they were written by one and the same person.

Mr. Richards.— I want to have some record — I will have it just marked, and they of course will want to take it back, and the stenographer can take a copy, and then the bank, of course, needs it for its records. Please mark that in evidence — that signature card.

(The card was received in evidence and marked Exhibit 53 of this date.) The said exhibit reads as follows:

"ACCOUNT OF WILLIAM SULZER.

874 Opened 817

Old account.

(Signature) William Sulzer.

Specimen signatures.
Telephone 1504 Broad.
Address, 45 Broadway.

Received May 29th, 1900.

For Farmers Loan & Trust Company,

New York City."

The Chairman.— That is all you want with Mr. Gibbs, isn't it?

Mr. Richards.— Yes.

The Chairman.— Thank you very much, Mr. Gibbs.

Mr. Richards.— Is there a member of the firm of Harris & Fuller here?

Mr. Fuller.— Yes.

Melville B. Fuller, a witness called by the Committee, having first been duly sworn, testified as follows:

The Chairman.— What is your full name, please?

The Witness.— Melville B. Fuller.

Examination by Mr. Richards:

Q. What is your name, sir? A. Melville B. Fuller.

Q. Mr. Fuller, are you a member of the firm of Harris & Fuller? A. I am.

Q. Your business is that of stock brokers? A. Yes, sir.

Q. Where is your place of business? A. 45 Broadway, New York.

Q. Are you a member of the Stock Exchange itself? A. I am.

Q. And have been for some time? A. I have.

Q. Do you know Mr. Frederick L. Colwell? A. I do.

Q. What has been his connection with your firm? A. He was a partner in our firm up to about eight or nine years ago.

Q. And since then, what connection, if any, has he had? A. He has no connection whatever.

Q. Well, he comes in from time to time, does he not? A. I don't think he has been there — no, he does not.

Q. He does not? A. No.

Q. Mr. Fuller, your firm has been subpoenaed to produce certain accounts of sales and purchases of stock by William Sulzer. Have you that subpoena with you? A. I have.

(The witness produces subpoena).

Mr. Richards.— I offer in evidence this subpoena — directed to the firm of Harris & Fuller, to produce all books of account, purchases and sales of stock, and deposits of margins, or withdrawals of money by William Sulzer, showing in detail all the transactions.

(Subpœna received in evidence and marked Exhibit No. 54 of this date.) The said exhibit reads as follows:

"* * *. And you are hereby further directed to bring with you before said Committee all books of account, ledgers, journals,

stock books, collateral, order and margin books, showing purchases or sales of stock and deposits of margin or withdrawals of money by William Sulzer from the 1st day of January, 1912, to date, showing in detail all transactions of said account whether in cash or securities, and all letters received from said William Sulzer or from any one for his account, or copies of all letters written to him or any one for his account, whether said account in reality of William Sulzer is carried in the name of William Sulzer, or under the name of some other person or some number." * * *

Q. Mr. Fuller, did William Sulzer have an account with your concern? A. With all due respect to this Special Committee of the Legislature, I am advised by my counsel that there is a question as to whether this Committee has been legally appointed, and further, as to whether they have any right —

The Chairman (interrupting).— Mr. Fuller, we won't ask the opinion of your counsel. We will ask you to answer the questions yes or no. Will you answer the questions put to you by counsel; yes or no, please?

The Witness.— I refuse to answer.

The Chairman.— You refuse to answer?

The Witness.— Yes, sir.

Q. Now, Mr. Fuller, when did you last see Governor Sulzer? A. I refuse to say.

Q. Did you visit him this week in Albany? A. I refuse to answer.

Q. Were not you called to Albany by Governor Sulzer between the time when you were served with the subpœna which was put in evidence, and to-day? A. I refuse to answer.

Q. Did you have a talk with Governor Sulzer up there and didn't he ask you to refuse to answer? A. I refuse to answer on the grounds already stated.

Q. On the ground that you have doubt as to the powers of the Committee? A. On the grounds that I have stated.

Mr. Richards.— Will you please, Mr. Stenographer, turn back to the grounds that he states.

(The stenographer thereupon read the answer of the witness as follows: "A. With all due respect to this Special Committee of the Legislature, I am advised by my counsel that there is a

question as to whether this Committee has been legally appointed, and further, as to whether they have any right —")

The Witness.— I will state them again, if you want me to.

Mr. Richards.— I wanted to see how you stated them then Mr. Fuller.

Q. That was the ground of your objection? A. When I was interrupted by the Chairman of the Committee, if you please, sir.

The Chairman.— Yes, I interrupted him and asked him to answer the questions yes or no.

Q. Will you state now the grounds, on what grounds you refuse to answer the questions? A. That there is a question as to whether this Committee has been legally appointed; also as to whether they have a right to inquire into the personal affairs of my firm. I have nothing to conceal.

Q. I assume that, Mr. Fuller? A. I am perfectly willing if ordered by the court.

Q. At whose suggestion, at whose suggestion are you refusing to answer? A. At the suggestion of Messrs. Olcott, Gruber, Bonynge & McMannus.

Q. I don't mean your lawyers, your counsel. I am talking about a layman? A. No layman.

Q. Who have you talked with with regard to this matter other than your counsel since you were served with a subpœna? A. I refuse to answer.

Q. That is within the powers of the Committee, Mr. Fuller. You don't claim that we haven't the right to inquire as to whom you had talked to? A. I refuse to answer on the grounds stated, there is a question as to whether the Committee have a right to inquire into the personal affairs of my firm.

The Chairman.— Then, Mr. Richards, the Committee would advise you to prepare papers and present them to a court, and see if we can get Mr. Fuller to answer.

Mr. Richards.— Well, I want to — so we will have specific —

The Witness (interrupting).— Mr. Chairman, I will want to make it perfectly plain.

The Chairman.— I understand.

The Witness.— I am willing to do it if ordered by a court.

The Chairman.— We will attempt to show you so as to satisfy your mind that the Committee has the right.

The Witness.— Thank you.

Q. Now, I ask you again on this one particular point: Didn't you go to Albany on Monday and didn't you there have a talk for two or three hours with Governor Sulzer on the subject of this account? A. I refuse to answer on the grounds stated.

Q. Do you know Governor Sulzer? A. I do.

Q. You do. How long have you known Governor Sulzer? A. Fifteen years.

Q. He used to be in the same building with your firm, did he not? A. I don't know.

Q. Wasn't he in the Aldridge Court, where your business — A. (Interrupting.) I don't know.

Q. Don't you remember that fifteen years ago he was down there? A. I told you I didn't know.

Q. I am trying to — I understand, Mr. Fuller. I am just trying to refresh your recollection. Don't you remember whether or not Governor Sulzer, who was then Congressman, had his office down at 45 Broadway, where your firm's office is? A. No, sir, I do not.

Q. In the same building? A. I don't remember, no, sir.

Q. How often have you seen Governor Sulzer in the last fifteen years, during the period of your acquaintance? A. I couldn't say.

Q. You couldn't state. Well, about how often have you seen him? A. I haven't the slightest idea.

Q. When he is here in town he don't drop in to see you, does he? A. No.

Q. Does he drop in to see your firm quite often? A. Not that I know of.

Q. Have you ever seen him in your office? A. No.

Q. You have not? A. No.

Q. Well, who does see him when he comes to your office? A. I didn't say that he did.

Q. I am asking now? A. I don't know.

Q. You don't know. What has your acquaintance been with Governor Sulzer? Has it been business or otherwise? A. Why, I have known him for years.

Q. I am asking you whether it has been business or otherwise; business or social or both? A. I refuse to answer.

Q. How long since you have seen Mr. Colwell? He is right here in the room, isn't he? A. (No answer).

Q. Mr. Colwell has been away since last Friday until this morning? A. Ask him. I don't know.

Q. Well, don't you know? A. No.

Mr. Richards.— Well, I think we will suspend with this witness, Mr. Chairman, and I think under the circumstances, I will ask you as Chairman to direct him to answer the questions.

The Chairman.—Well, I will again repeat, Mr. Fuller. I direct you in behalf of the Legislature of the State of New York to answer the questions to the counsel as asked of you. Will you or will you not?

The Witness.— I will not.

The Chairman.—Then, Mr. Richards, as I already stated, you will prepare the papers and go before the Court and follow out whatever the law prescribes for a witness refusing to answer the questions put to him by the Legislature Committee.

Mr. Richards.— Well, then, under the circumstances, there is nothing further to do but to let the witness leave the stand.

The Chairman.—You can consider yourself still under subpoena.

The Witness.— Do you want me to stay here?

The Chairman.— No, no.

Mr. Richards.—At any time the Committee sends for you.

The Witness.— Certainly.

Mr. Richards.— Mr. Colwell.

Frederick L. Colwell, a witness called by the Committee, being first duly sworn, testified as follows:

The Chairman.— What is your full name, please?

The Witness.— Frederick L. Colwell.

Direct examination by Mr. Richards:

Q. Mr. Colwell, where do you reside? A. Yonkers, N. Y.

Q. And what is your business? A. None whatsoever.

Q. You have no business at present? A. No, sir.

Q. You are interested, however, in financial matters, are you not? A. No, sir.

Q. Well, don't you keep an office in the financial district? A. Yes, sir.

Q. Where do you keep your office? A. 71 Broadway, where I get my mail.

Q. With whom is that office? A. Fuller & Gray.

Q. And how long have you maintained that connection with Fuller & Gray? A. Since the first of February.

Q. And before that where was your office located? A. Well, I had no office for a year or so, formerly, before that.

Q. Well, I mean until within a year of that you had no particular — A. (Interrupting) No.

Q. (Continuing) Business address? A. No, sir.

Q. And were you in any business before that? A. Yes, sir, the firm of Harris & Fuller.

Q. How long were you a member of the firm of Harris & Fuller? A. Fifteen or eighteen years.

Q. That is, beginning fifteen years ago? A. No, I have not been a member of that firm for seven or eight years.

Q. Beginning then, more than fifteen years ago? A. 1889 I was first a member of that firm.

Q. You first became a member of that firm in 1889? A. Yes, sir.

Q. And when did you cease to be a member of that firm? A. 1905 or 1906, I think; 1907; somewheres through there.

Q. 1906 or 1907? A. 1906 or 1907.

Q. Do you know William Sulzer, the Governor? A. Yes, sir.

Q. How long have you known Mr. Sulzer? A. A good many years; about ten or twelve years, I guess.

Q. Was he a customer of that firm when you were there? A. That, sir, I refuse to answer on the advice of counsel.

Q. Who is your counsel? A. Mr. Beall, to my right.

Q. Do you know Frederick A. Coe? A. Yes, sir.

Q. Who is he? A. I believe he is one of the clerks in their Yonkers office.

Q. How long have you known Mr. Coe? A. A year or so ago.

Q. Since he went with them? A. He was there before I knew him, I think.

Q. How did you come to know him in connection with Fuller & Gray? A. I say I saw him in that office; I was introduced to him.

Q. Do you go into the office there of Fuller & Gray? A. Once in a while.

Q. Well, how often? A. Once a week, once in two weeks, just to use the telephone possibly, or to phone up to my house.

Q. Are you interested in business at all? A. None whatsoever.

Q. Did you see the Governor during the campaign? A. Yes, sir.

Q. How many times did you see the Governor during the campaign? A. I couldn't say.

Q. Well, I mean how often did you call at his office when he was here in town during the campaign? A. Well, offhand, half a dozen times.

Q. Did you talk over stocks with him? A. Oh, he would ask how the market was, and so on, that was all.

Q. You knew, did you not, that he had an account at that time with — A. (Interrupting) No, sir, I did not.

Q. Wait. You are a little bit too quick. You knew, did you not, that at that time he had an account with Harris & Fuller? A. No, I did not.

Q. Although he talked stock market with you, he did not mention where he had his account? A. No, sir.

Q. And you had no idea where he had his account? A. No, sir.

Q. Do you know about account No. 500 with Fuller & Gray? A. No, sir.

Q. You mean to say that you have no information about it? A. Hearing them speak about it here, that is all.

Q. Haven't you told people in Yonkers that account No. 500 was William Sulzer's account under cover? A. I refuse to answer, sir.

Mr. Richards.— Just repeat the last question and the last answer of the witness.

(The stenographer thereupon read the last question and answer as follows):

"Q. Haven't you told people in Yonkers, that account No. 500 was William Sulzer's account under cover? A. I refuse to answer, sir."

Mr. Richards.— Read the question and answer before that.

(The stenographer thereupon read the question and answer referred to as follows:)

"Q. You mean to say that you have no information about it? A. Hearing them speak about it here, that is all."

Q. Now, I ask you again, in view of your statement before, now, is that statement true, that the only way, and the only information you have of account No. 500 was what you heard here? A. I refuse to answer, sir.

Q. Well, now, did you mean then, the answer that you gave to the question which I have just called your attention to, did you mean that, was that true? A. What was that?

Q. Why, you said that the first — that the only information you had of the account is what you heard here. Now, did you say that? A. I did.

Q. What did you mean by it? A. I heard Mr. Fuller, Jr., Mr. Arthur Fuller.

Q. Now, I ask you again, is that the only information that you had of account 500? A. I had heard of it before.

Q. Where had you heard of it before? A. Mr. Fuller speaking about it.

Q. Which Mr. Fuller? A. Arthur Fuller.

Q. How long ago was that? A. Oh, I couldn't say how long ago it was.

Q. Did you speak to Mr. Gray about it? A. I think Mr. Gray spoke to me about it.

Q. Do you know Mr. Sutton, Mr. Gray's brother-in-law? A. Yes, sir.

Q. Did you tell Mr. Sutton, Mr. Gray's brother-in-law, that account 500 in Fuller & Gray was the account of William Sulzer? A. No, sir.

Q. Did you tell other people in Yonkers that fact? A. No, sir.

Q. You have the same telephone call as Messrs. Harris & Fuller, have you not? A. Yes, sir.

Q. Fuller & Gray, I beg your pardon. Did you have some — how recently have you seen Governor Sulzer? A. Oh, it must be months since I have seen him.

Q. A month? A. Months.

Q. Months. Have you seen him since the legislation which you proposed with regard to the stock exchange was introduced? A. No, sir.

Q. Did you see him at that time? A. When was that — I was passing through Albany —

Q. (Interrupting) In the Legislature in 1913 was the legislation with regard to the stock exchange, increasing the tax, etc.,

did you go to see Governor Sulzer at Albany? A. Did I go to see him? No. I was passing through, and I just stopped in and said how do you do to him in the Executive Chamber.

Q. Did you talk with him? A. Passed the day.

Q. Just passed the day? A. Time of day.

Q. How long since you have seen him is it when you have more than passed the day? A. Repeat the question.

Q. Perhaps I put it rather awkward. On this occasion when you were passing through Albany, and when you say the Legislature was in session, and when some of this Wall Street legislation, Stock Exchange legislation was on the boards, you say that you stopped — you were passing through and stopped to see him in a casual way. Now, I ask you before that trip, before that casual talk with the Governor, when had you last seen him? A. Oh, last Fall, away back.

Q. Last Fall. When was that, in October? A. I think it was.

Q. And did you see him at his office? Did he see you at his office? A. I saw him at his office.

Q. Did he ever come to your office? A. No, sir.

Q. Did you ever see him in the office of Miller & Gray? A. No, sir.

Q. Or in the office of Harris & Fuller? A. Years back, when I was a member of the firm.

Q. When you were a member of the firm of Harris & Gray? A. Harris & Fuller.

Q. Now, so that I may have no misunderstanding of what you say, I didn't mean necessarily that your talk with the Governor would be that you were face to face. Did you talk to him over the telephone this last year? A. No, sir.

Q. At any time? A. No, sir.

Q. Or talk with anyone representing him? A. No, sir.

Q. How often during the campaign did the Governor call you over to his office? A. I couldn't say.

Q. Well, can't you give us some idea? A. No, I could not.

Q. Well, you were there quite often, were you not? A. No, once or twice, two or three times.

Q. Once or twice? A. Two or three times.

Q. Two or three times. You know Mr. Louis A. Sarecky? A. Yes, sir.

Q. Did you take lunch with him? A. No, sir.

Q. I don't mean recently, but you have taken lunch with him, have you not? A. I think once, if I remember.

Q. When did you last see Mr. Louis A. Sarecky? A. I refuse to answer.

Q. When did you first hear of the service of a subpoena calling for these accounts that we are asking for here? A. Monday morning.

Q. Monday of this week? A. Yes, sir.

Q. Who told you about it? A. Somebody in the office of Fuller & Gray said that Mr. Arthur Fuller had been subpoenaed; said nothing about me.

Q. Nothing about you. No, I understand that, but that was the first that you heard of that? A. Yes, sir.

Q. And when last before that had you seen Louis Sarecky? A. I passed him in the hall mailing a letter.

Q. How long before that? A month or so I guess.

Q. How recently have you seen him? A. I refuse to answer.

Q. Have you seen him this week? A. I refuse to answer, sir.

Q. Did you see him yesterday? A. The same answer, I refuse.

Q. I beg your pardon? A. I refuse to answer.

Mr. Richards.— I think that is all, Mr. Chairman. I want to have you to direct this witness to answer the questions.

The Chairman.— Yes. I want to ask a question.

By the Chairman:

Q. At any time during the session of the Legislature did you talk with the Governor about the then pending legislation, pertaining to the Stock Exchange? A. No, sir.

Q. Or anybody connected with the Governor? A. No, sir.

Q. His counsel? A. No, sir.

Q. Mr. Sarecky? A. No, sir.

Q. Or anybody else? A. No, sir.

The Chairman.— Mr. Yard desires to ask you a question. Kindly answer, if you will.

By Assemblyman Yard:

Q. Do you correspond with the Governor? A. No, sir.

Q. Have you had any correspondence with him recently? A. No, sir.

By Mr. Richards:

Q. Did you have any correspondence with him in October, 1912? A. No, sir.

Q. Or with Mr. Sarecky? A. No, sir.

Mr. Richards.— That is all.

The Chairman.— You will consider yourself under subpœna.

The Witness.— Yes, sir.

The Chairman.— So that you will be within call of the Committee.

The Witness.— Yes, sir.

The Chairman.— The purpose of that is, we will see if the court — you doubt the powers of this Committee to have you answer all questions put to you, and we will settle that matter before the court.

And I might say, any witness who has been subpœnaed here until the counsel announces that he is through with him he will be still under subpœna.

Mr. Richards.—Well, Mr. Chairman, I think we will suspend here until to-morrow, and I will ask the Chairman to direct any witnesses who have been under subpoena, who have not been called to-day, to be here to-morrow morning at 10:30 A. M.

The Chairman.— The witnesses subpoenaed by this Committee who have not been called to-day will consider themselves still under subpoena and will appear to-morrow morning at 11 o'clock.

The Committee is adjourned.

Thereupon at 1:10 o'clock P. M., the Committee adjourned to meet again on Thursday, August 7, 1913, at 11 o'clock A. M.

COUNCIL CHAMBER, CITY HALL,

NEW YORK, *August* 7, 1913.

Met pursuant to adjournment at 11:00 a. m.

Present — Parties as before.

Mr. Richards.— Mr. Chairman, referring to the telegram of invitation which was sent to the Reverend O. R. Miller, I received in this morning's mail the following communication addressed to you sent to my office:

(Reading):

"STATE HEADQUARTERS, 61 STATE STREET,

ALBANY, N. Y., *August* 6, 1913.

Senator James J. Frawley, New York City:

DEAR SENATOR FRAWLEY.— Your telegram received last evening after office hours and as I preferred to write rather than telegraph you, my reply is delayed until to-day.

I shall be very glad to appear before your Joint Legislative Investigating Committee, and furnish you what information I have concerning the charge made in The Reform Bulletin of July 25th, that I was told that some members of the Legislature three years ago, sought a bribe for the killing of a bill.

However, because of previous engagements it will be impossible for me to come to New York this week, but I will gladly come any day next week after Monday; or if your Committee meets in Albany next week, I shall be here and will be glad to appear before your Committee here.

As I am ignorant of the ways of law, I desire to be represented by counsel at the hearing. Will there be any objection to my having counsel with me at the hearing? When I appear before the Committee I shall, at that time, furnish your Committee with the names of witnesses whom you can call on to sustain the charges which I make.

Very respectfully,
(Signed) O. R. MILLER,
State Superintendent."

This is headed on the letter head of the New York Civic League, Rev. O. R. Miller, State Superintendent, and Editor of the Reform Bulletin.

The Chairman.— You desire that to be spread on the record of the minutes?

Mr. Richards.— Yes. I ask to have this spread upon the minutes.

I would say also that so far no reply has been received from Hon. William Sulzer to the letter which was addressed to him yesterday.

The Chairman.— Well, it would hardly be time, Mr. Richards; I understand the Governor was in Warren County last night, and therefore, it would be impossible for him to receive a letter and answer by this time.

Mr. Richards.— Is Mr. Philip Boyer in the room?

Mr. Boyer.— Yes.

Philip Boyer was called as a witness, and being duly sworn, testified as follows:

Examination by Mr. Richards:

Q. Mr. Boyer, where do you reside? A. Manhassett, Long Island.

Q. And what is your business? A. Banker.

Q. A banker and a broker? A. Yes.

Q. Dealing in stocks on the Stock Exchange? A. Yes.

Q. What firm of bankers and brokers are you connected with now? A. W. C. Langley & Company, 10 Wall.

Q. And on last October what firm were you connected with, or a member of? A. Boyer & Griswold Company.

Q. Were they bankers and brokers dealing in stocks, are they? A. Yes.

Q. Did you have an account in the Manhattan Company's Bank? A. Yes.

Q. I ask you to look at Exhibit 4 of August 6th, and state whether or not you identify that as a check which went through your bank account in the Manhattan Company? It is very indistinct up here in the corner, but I think you can make it out? A. Yes. That is our stamp.

Q. How long did that firm continue since October 10, 1912? A. About the 31st of March, 1913.

Q. This year? A. It dissolved 1913.

Q. And where are the books and records of that firm? A. They are in our office. We still have an office at 42 Broadway.

Q. 42 Broadway? A. Yes.

Q. Who is in charge of that office? A. You mean now?

Q. Yes. A. Well, I supposed the building.

Q. You mean they are locked up there? A. Yes.

Q. They are locked up? A. Yes.

Q. No one is in charge, the offices are not open? A. No.

Q. And have you in your employ now any of the bookkeepers or stock clerks that were in the employ of Boyer & Griswold Company? A. You mean in W. C. Langley & Company?

Q. Yes. A. No.

Q. Do you know where any of those clerks and employees are? A. I know where some of them are.

Q. Can you tell me the names of some of them and where they are employed? A. Well, the cashier, Charles Reynolds, is with Colgate, Parker & Company, 2 Wall street.

Q. That is another brokerage firm? A. Yes, sir.

Q. Colgate, Parker & Company? A. Yes, sir.

Q. Who else do you remember? A. Why I could not give you definite information without looking it up, but that is the man who would know more about that.

Q. He would know more about this? A. Yes.

Q. Do you know a man, a man by the name of Frederick Caldwell? A. Yes.

Q. Was he doing business in your concern of Boyer & Griswold Company; was he doing business with you, I mean himself? A. On only one occasion.

Q. Only on one occasion. What was the transaction on that one occasion? A. He asked me if he could buy a hundred shares of Big Four, for cash — to be delivered that same day, and he would supply the cash.

Q. The Big Four? A. Yes.

Q. And you remember, do you, what day that was? A. No.

Q. Can you tell us about what was paid for that hundred shares? A. No.

Q. Do you recollect at all about how much it was quoted at that time, do you know that? A. No.

Q. Was that October 12th? A. No, I don't remember.

Q. You don't remember? A. No.

Q. Do you remember ever having seen Exhibit 4? A. No, sir.

Q. You don't remember ever having seen that? A. No, sir.

Q. That would naturally go, I suppose, to your cashier? A. That was the mechanical part of the office.

Q. And this was a cash transaction, and you would naturally have the checks certified, would you not? A. Yes.

Q. And you undoubtedly have this check Exhibit 4, certified by the Guarantee Trust Company? A. Well, I imagine — yes, it is certified.

Q. Yes. When did you last see Mr. Caldwell? A. Oh, I should say in February.

Q. And was the stock that you say was delivered to Caldwell, that he bought, was that delivered to him personally? A. Yes, to the best of my knowledge.

Q. That is your best recollection? A. Yes.

Q. You saw Caldwell at one time or another yourself, of course? A. Yes.

Q. Are you the board member or office member? A. The office member.

Q. You were the office member? A. Yes.

Q. So that you would have charge of such things as that? A. Yes.

Q. And do you remember when — when you say a cash transaction, it was not bought on margin? A. No, it was not bought on margin. It was bought on the board, bought for them this day's delivery, not the next day's delivery.

Q. Exactly. This is what you mean by cash transaction? A. Yes.

Q. Was an account with Mr. Caldwell on your books for this transaction? A. Yes, I tried to remember whether it was opened under his name or not, and I don't remember. Neither did our cashier. I called him up.

Q. You sometimes used numbers in your business? A. Yes. I think it was under his name.

Q. You think that was under his name? A. Yes.

Q. When he was in to see you last February, what was that in relation to, simply a question of stock transaction or anything relating to this account? A. I know the man very slightly. He has a friend in our office and he might have come in to see him.

Q. He may have come in to see him? A. Yes.

Q. And you had no account then under the name of William Sulzer? A. No.

Q. In your concern? A. No.

Q. Now, the books that show this account with Colwell and the man who can testify with regard to the transaction and the delivery of the stock would be Reynolds? A. Either Reynolds or the manager, called Shevale, I will find out where he is working.

Q. How long since you heard of Shevale? A. He left us in March, I think. I haven't seen him since.

Q. About substantially when the firm dissolved? A. Yes.

Q. And you can look that up for me to-day? A. Yes.

Q. And either you or your counsel will communicate with me? A. Yes.

Q. Can you arrange so that I can see those books? A. Yes.

Q. Will you do that to-day? A. Yes, sir. I don't know that I can get them to-day. They are all packed away. I can get them this week.

Q. So I can have it by 11 o'clock to-morrow morning? A. I will try.

Q. I understand. I don't want you to do impossibilities. I know you are a business man, but I want if possible to have those so I can use them by 11 o'clock to-morrow morning. A. Yes, sir. Is that all?

The Chairman.— Is that all?

Mr. Richards.— That is all. Thank you.

(Witness excused.)

Mr. Richards.— I wish it noted on the record that I have subpoenaed Mr. Simon Ulmann of 17 Battery place, or attempted to subpoena him, and he is in Europe.

I have also subpoenaed the secretary of Mr. Frederick Augustus Heinze, Mr. Charles Saacke. Is he here?

(No response.)

Mr. Richards.— I have also served a subpoena on the representative of Mr. Archibald S. Rice, of 30 Pine street, who is also in Europe. Is anybody here from Garout? Garout Brothers?

(No response.)

Mr. Richards.— Anybody here from Mr. Peter Doelger?

(No response.)

I have also served the firm of Lehman Brothers, bankers and brokers to produce all checks from Mr. Herbert H. Lehman. Mr. Lehman is also away and cannot be located.

Mr. Richards.— While I am waiting for some of these witnesses, Mr. Chairman, I want to have it spread upon the record that there is an error in the Governor's own statement on the basis of even what he says. He has reported that he received from Joseph W. Kay, on November 2d, $250. The deposit slip of November 4th, showing a check, and the check is identified, and the name is given by the bank clerk himself, Joseph W. Kay, $550. He reported a little too much on that occasion. But we don't know what has become of the $200. We will have to suspend a moment, Mr. Chairman, until some of these witnesses come.

The Chairman.— Mr. Richards, some of the Committee desire to know what you propose to prove by introduction of the Fuller firm. I wish you would give them some explanation.

Mr. Richards.— I wish to prove, if the Chairman please, that this particular campaign contribution of Mr. John Lynn went into a stock transaction for the purchase of stocks, and that the person who purchased those stocks, although the check was a contribution to William Sulzer, the person who purchased them and took them away, that is, took away the stock, was Mr. Frederick L. Colwell, the gentleman who was on the stand here yesterday, and whom I have examined. It also shows the same stock, the same railroad stock that appears in this mysterious account, No. 500, is the same stock that Mr. Colwell was buying through the firm of Voyer, Griswold & Company, and using William Sulzer's check.

The Chairman.— I hope that will be satisfactory to the members of the Committee.

Mr. Richards.— Is anybody here from Mr. Doelger yet, Mr. Doelger's representative?

(No response.)

Mr. Richards.— Now, Mr. Chairman, referring to the refusal of the witnesses yesterday — Mr. Melville Fuller and Mr. Frederick L. Colwell — to answer questions which were pertinent to this inquiry with regard to matters mentioned and refusing to produce certain books and papers which this Committee directed them to produce, I have waited this morning in the hope that I would hear from either of them or their counsel that they had come to the conclusion that it was the wisest thing for them to do, to come here and testify and produce the papers and books that we asked for. Now, I have waited twenty-four hours for them. I communicated with the counsel for one of them, and I have heard nothing from him since, calling his attention to the files of this committee, and to the files of the Legislature.

As I understand it, the Legislature itself will reconvene on Monday, the 11th, and the Legislature in session has had to deal with these two cases without the delay which might occur in a proceeding in court. In the case of Mr. Barnes, which Governor Sulzer's counsel referred to with such respect and which went to the Court of Appeals and took two months before a final decision

was rendered, nothing was done. I think this committee wants to get quick action. I know that I do, Mr. Chairman. I therefore ask you to consider whether or not it will be advisable, and I do apply for that, to notify these witnesses to appear here to-morrow morning at 10:30 to answer the questions which have hitherto been propounded to them, and on their failure to do so, to notify them to appear before the Legislature at Albany on Monday when it convenes, unless the Legislature deals with their cases under the Legislative Law, which I want to read to the committee. The Legislative Law, Laws of 1909, Chapter 37, subdivision 4, provides as follows:

> "Each House may punish by imprisonment, not extending beyond the same session of the legislature for a contempt for the following offences only:
>
> "Neglect to attend or to be examined as a witness before the House or a committee thereof, or, upon reasonable notice, to produce any material books, papers or documents when duly required to give testimony, or to produce books, papers or documents in a Legislative proceeding, inquiry or investigation."

The Chairman.— Now, Mr. Richards, will you prepare the names and the papers for it, and the Committee will be very glad to present the same on Monday night to the Legislature when in session.

Mr. Richards.— Well, under the —

The Chairman.— I wish you would include in the preparation of your papers, the names of these men, so that we may take action upon these men properly. Do you desire this Committee to submit the name of Sarecky at the same time as these others?

Mr. Richards.— I think you might as well.

The Chairman.—Then, you might include his name in your papers. It is your desire to offer or afford an opportunity to these men that you have subpoenaed here to-morrow?

Mr. Richards.—To have one more chance to-morrow to come here and tell what they know about these transactions and answer the questions which they refused to answer yesterday; and on their failure to do that, that they be summoned before the Legislature on Monday evening, when it convenes.

The Chairman.—Well, the names that you will prepare are those men whom you served a subpoena directly on?

Mr. Richards.— Yes.

The Chairman.— Not upon employees.

Mr. Richards.— Mr. Melville Fuller was a member of the firm of Harris & Fuller, and Mr. Frederick L. Colwell was formerly connected with that bank, and who was on the stand yesterday. These are the two men that I referred to, Mr. Chairman, and if the chair authorizes me I will draw a notice to them and serve it on them to-day, both of them individually, commanding them to appear here to-morrow and answer those questions, and on their failure to do so, to appear at Albany before the Legislature.

The Chairman.— In behalf of the committee, I authorize you now to draw up the proper papers, and serve them upon those men whom you have mentioned, who have refused to testify to all questions put to them pertaining to this investigation, and to give them ample time, and to serve them before two o'clock to-day.

Mr. Richards.— Has Mr. Doelger come in yet?

(No response.)

Mr. Richards.—Are there any witnesses in the room who have a subpoena?

(Otto Mennert produces a subpoena.)

Mr. Richards.— I will ask Mr. Mennert to take the stand.

The Chairman.—Your full name.

Mr. Mennert.— Otto Mennert.

Otto Mennert was called as a witness and being duly sworn testified as follows:

Examination by Mr. Richards:

Q. What is your name, sir. A. Mennert.
Q. Mr. Mennert, where do you live? A. Manhattan.
Q. Where? A. 200 West 109th street.
Q. By whom are you employed? A. T. W. Myers.
Q. T. W. Myers? A. Yes, sir.
Q. What is his business? A. He is a broker.
Q. Banker and broker? A. Yes.

Q. 20 New street? A. Yes.

Q. Where is he? A. In Europe.

Q. How long has he been in Europe? How long ago did he leave? A. Since May, this year.

Q. When do you expect him back? A. The middle of next month.

Q. The middle of next month, Mr. Mennert, did you say? A. Yes, sir.

Q. What is your relation to him? You are his representative there in his office? A. Yes, sir.

Q. You were served with a subpoena to produce any canceled checks or canceled check made by Mr. Myers or for his account to the order of William Sulzer or to any other person for the account of William Sulzer, and any letters? A. Yes, sir.

Q. Have you charge of those documents in Mr. Myers' office? A. Yes, sir.

Q. Have you looked up those checks? A. Yes.

Q. Have you been able to find any checks? A. Yes, sir.

Q. How many accounts has Mr. Myers. How many bank accounts? A. One.

Q. Where is that? A. Farmers Loan & Trust Company.

Q. Farmers Loan and Trust Company? A. Yes.

Q. Have you been through his canceled checks? A. Yes, sir, I have.

Q. Have you looked for any checks to bearer or cash? A. Yes.

Q. Are there such checks? A. Yes, there are some checks.

Q. Are there such checks in October, 1912? A. Yes, sir, there are.

Q. Can you tell us the amount of those checks? A. Well, there are some $100, some $500, some $1,000.

Q. How many $1,000? A. I couldn't tell you offhand. I did not make a note about that.

Q. Have you looked up the endorsements on the back of those checks to bearer or cash? A. Yes, sir.

Q. How are they endorsed? Are some of them endorsed at all? A. Some are not endorsed at all.

Q. Some are not endorsed at all? Well, I will ask you to produce any checks in October, 1912, to the order of bearer or cash. A. Yes, sir.

Q. That you may have in your possession or Mr. Myers', to the order of Theodore W. Myers himself. A. Yes, sir.

Q. And any others by him during those months, and have those here to-morrow morning at half past ten. A. I will, yes, sir.

Q. Have you got any there to Louis A. Sarecky? A. No, sir.

Q. Any canceled checks to Louis A. Sarecky? A. No, sir, I have not.

Q. To Samuel I. Frankenstein? A. Not that I know of.

Q. You don't remember? A. No, sir.

Q. I will ask you to produce those to-morrow, the ones that I spoke of. A. Yes, sir.

The Chairman.— All right, Mr. Mennert.

(The witness excused.)

Mr. Richards.— Is Mr. Doelger here? Mr. Peter Doelger, or his representative?

(No response.)

Mr. Richards.— Is there anybody else here who was served with a subpoena? If so, let him step forth.

(No response.)

Mr. Richards.— I think there is one more witness on the way up here. We telephoned down for him.

(The committee here waited ten minutes for the appearance of witness.)

Mr. Richards.— Is anybody here yet from Mr. Doelger? Or his representative?

(No response.)

The Chairman.— Are you ready to proceed, Mr. Richards?

Mr. Richards.— Mr. Doelger's representative has not arrived here, so that it is a question now whether the Chair wants to adjourn until to-morrow morning, or wait until the witness appears. Neither has the other witness arrived, to whom I referred. I think we have waited long enough now, Mr. Chairman.

The Chairman.— I am informed that the young man is on his way here, so we will wait a few minutes.

(After a fifteen minute recess.)

Mr. Richards.— Is Mr. Peter Doelger here, or his representative?

(No response.)

Mr. Richards.— Mr. Chairman, I don't see any use of our waiting here for this gentleman. Let him come here to-morrow morning. He has kept us waiting. I know I have a lot of work to-day and I think we had better adjourn until to-morrow.

The Chairman.— If it is satisfactory to you, it certainly is to us. Are you ready then to take an adjournment?

Mr. Richards.— I think so.

The Chairman.— Before we adjourn, I would make one more call to see if there is anybody in the house who is subpoenaed.

Mr. Richards.— Is there anybody here under subpoena?

(No response.)

The Chairman.— Mr. Richards, have you found anybody to answer?

Mr. Richards.— I have not.

(The Committee waited from 12.18 until 12.21 P. M.)

Mr. Richards.— Mr. Gottelf is here.

Charles Gottelf was called as a witness and being duly sworn, testified as follows:

Examination by Mr. Richards:

Q. Where do you reside? A. 192 Washington avenue, Brooklyn.

Q. What is your business? Flag manufacturer; President of the American Flag Company.

Q. At what address? A. 45 and 47 Elizabeth street.

Q. Do you know Governor Sulzer? A. I do.

Q. You know him pretty well? A. I do.

Q. Did you make a contribution to his campaign? A. No, sir.

Q. Either by check or in cash? A. No, sir.

Q. Did you receive a letter from him a short time ago asking you not to give any information with regard to contributions? A. No, sir.

Q. Do you remember this gentleman coming to see you? (Indicating) A. I do, sir.

Q. Do you remember your telling him you had a letter in

your pocket which you had just received from the Governor and you thought you better tear it up? A. I don't remember that.

Q. Do you say you did not say that to him? A. That was personal business between the Governor and I.

Q. We are inquiring into the personal business between the Governor and you, and I want to have you answer the question. A. I refuse to answer that question because that is private business between the Governor and myself.

Q. What is private business between the Governor and yourself? A. Friendship.

Q. Friendship. A. Friendship that existed for some years.

Q. Did you or did you not say to this gentleman that you had just received a letter from the Governor and that if he was looking for information about campaign contributions you had better destroy that letter? **A. I didn't.**

Q. Now did you say that or didn't you? A. I didn't.

Q. Didn't you say that you didn't remember? A. I say I did not destroy that letter.

Mr. Richards.— Please return to his testimony, the part that says he didn't remember.

(The stenographer repeated the testimony as follows:

"Q. Do you remember this gentleman coming to see you? (Indicating) A. I do sir.

"Q. Do you remember your telling him you had a letter in your pocket which you had just received from the Governor and you thought you better tear it up? A. I don't remember that."

Q. Which is true? You have sworn both ways, that you did not remember and that you say it was not done? A. No, I don't remember. I don't remember, and I certainly did not say I would tear it up, because there was no reason for tearing up that letter to produce. I haven't had it.

Q. When did you receive that letter, what was the date of that letter? A. I could not tell you. I think it is three or four weeks prior to —

Q. Didn't you tell this gentleman that you received on or about the 28th or 29th of July a letter? A. I didn't.

Q. Didn't you get a letter from the Governor about the 28th or 29th of July? A. I don't remember what date it was.

Q. Have you got the letter? A. No, sir.

Q. What did you do with the letter? A. I may find it if I look for it.

Q. Did you destroy it? A. Perhaps I did.

Q. You have been served with a subpoena in this case? A. Yes.

Q. Please produce it. A. (Producing subpoena) The subpoena didn't say anything, only about the check.

Q. I will read it to you. You were subpoenaed to produce (reading "certain canceled check paid by you or for your account during the month of October or November 1912, to the order of William Sulzer or any other person for the account of William Sulzer." A. Yes.

Q. (Reading) "Also copy of a letter written to William Sulzer or such other person, transmitting such check; a letter written by William Sulzer or such other person, acknowledging receipt; and any letter or communication in writing received by you from William Sulzer or any other person on his behalf relating to such check or a request to refuse information." Didn't that subpoena notify you to produce such letter? A. I have no such letter to produce. I haven't had it.

By the Chairman:

Q. Is the letter destroyed? A. I believe it is.

Q. Are you sure? A. Yes, I am quite sure, but I have other letters —

Q. No, no — A. That I could pick up if I wanted to —

Q. No, no — A. I didn't keep these letters.

Q. Did you destroy this letter mentioned? A. I think I did.

Q. You did? A. Yes.

Q. Well, let us have it clear; did you or did you not? A. I believe I did. I will look it up, look up all the letters, all I have. If you desire me to do that I will do it.

Q. Will you do that? A. I will.

Q. Now, will you try — A. But I believe I destroyed a number of letters from him. I have been corresponding with the Governor for nigh on to 20 years.

Q. That is not what we want at all, but the question is, have you destroyed this particular letter? A. I believe I did, yes, sir.

Q. The counsel to the Committee desires information, to which he refers.

A. In which he refers to — nothing in that letter outside of a letter of introduction I wanted for somebody. That is all that is in there. No news or anything in that letter. That is why I believe I destroyed it.

Q. We agree with you, but only just so as to satisfy counsel, will you kindly look that up. He has an idea of his own about it. A. In the meantime I will tell you what was in that letter, nothing more than an introduction to a friend of mine.

Q. An introduction to a friend of yours? A. That is all that was in that letter; nothing of importance of any kind, and for that reason I destroyed it.

Q. So the Committee can be clear, are you president of a concern? A. I am, sir.

Q. Did that concern contribute? A. What is that?

Q. Did your concern contribute as a concern, as a corporation? A. No, sir.

Q. They did not give any money? A. No, sir.

Q. No other officer gave any money? A. No, sir.

Q. Will you try and go back and see, as you believe you only destroyed that letter, will you bring it here? A. I am inclined to believe I destroyed it because the letter was of little importance. If it had been important I would have kept the letter, but I have other letters from the Governor, which will refer to it, I will say.

Q. You have other letters referring to it? A. A number of letters with the Governor from years back, our friendly relationship.

Q. How many years back? A. I couldn't tell you.

Q. You have a great many letters from Governor Sulzer? A. I have a great many, but I only keep important ones.

Q. But this particular letter which this gentleman claims you had; you have destroyed that? A. Yes, sir.

Q. You have destroyed that? A. That was simply an introduction to —

Q. A friend of yours? A. That was a letter of introduction, in other words, that was a letter saying "Mr. G., I enclose a letter of introduction."

Q. Now, you only believe you destroyed that letter. Will you go back and search your papers to see if you erred in your statement? A. I will do that, sure.

Q. You will do that? A. Yes, sir.

By Mr. Richards:

Q. Mr. Gottelf, do you keep a bank account? A. I do, yes, sir.

Q. Will you produce your canceled checks and stubs of your check book for October and November, 1912, here to-morrow? A. Well, I will have to consult my attorney about it.

Q. I don't desire to look into your personal transactions. A. But that is my personal transaction.

Q. But I want to verify your statement that you have not contributed or paid any money to William Sulzer or any one for his account, either by check or cash. You understand that is what you are swearing to? A. Yes, I do.

Q. You understand? A. Positively.

Q. Are you willing to verify that statement by bringing your canceled checks here? A. Not until I consult my attorney on the subject.

Q. Do you desire to consult your attorney on any other matter? You are willing to look into this matter? A. Yes. If I can find it you can have it. If not I cannot produce it, that is all, but I have other letters that relate.

Now, there is one thing I want to say.

The Chairman.— Anything you want to say, Mr. Gottelf, go right along.

The Witness.— Anything in relation to this contribution point, — I did not contribute anything but I probably spent some money of my own accord.

By the Chairman:

Q. That is a privilege you have, the same as any other citizen. A. Well, on his account, I may have gone out and done a lot of things I have paid for.

Q. That you have a right to. A. I have a right to do that?

Q. Yes. A. Well, that is all I know. If you want me to tell you that, I have done that. I have done things for Governor Sulzer and others that nobody knew anything about, and paid for it.

By Mr. Richards:

Q. I don't yet understand how it is that after this talk with this gentleman here, that having kept a number of other letters running back a long period of years, that you should destroy that particular letter. A. I don't say, Mr. Counsel, that I have kept every letter. I have destroyed the biggest part of them except some that were important to me. I wouldn't keep every letter that comes to me. If they are not important enough to file, why, I destroy them, and I did the same thing with this.

Q. Since you have thought the matter over and refreshed your recollection, didn't you say to this gentleman (indicating) that

you had a letter you got on the 28th or 29th of July and if this matter of contributions was coming up that you thought you better destroy it? A. I did not.

Q. You didn't say that? A. I didn't.

Q. But you did destroy the letter? A. I didn't say anything of the kind.

Q. You did destroy the letter? A. I believe I did, yes, sir.

Mr. Richards.— That is all.

The Chairman.— That is all. You will look for that letter?

Mr. Gottelf.— I will and look for it, yes.

(Witness excused.)

Mr. Richards.— Is Mr. Peter Doelger or his representative here?

(No response.)

The Chairman.— Have you any report?

Mr. Richards.— No report from Mr. Doelger.

The Chairman.— If you have no further witnesses to-day the Committee will adjourn until to-morrow at 12:15 P. M.

(Whereupon at 12:32 P. M. the Committee adjourned to July 8, 1913, at 12:15 P. M.)

(At 12:36 P. M. the Committee was called back by the Chairman, on the arrival of Mr. Doelger's representative.)

Henry C. Keckheisen was called as a witness and, being duly sworn, testified as follows:

Examination by Mr. Richards:

Q. You come from Peter Doelger? A. Yes, sir.

Q. In response to a subpœna served on Mr. Doelger to produce a certain check or letters? A. Yes, sir.

Q. Have you done so? A. I have.

Q. Will you please produce them? A. (Witness produces papers.)

Q. You produce a check signed "Peter Doelger. Charles P. Doelger, Attorney." Dated October 14th, to the "Order of William Sulzer," for $250, do you not? A. I do, sir.

Mr. Richards.— I offer that in evidence.

(The check was received in evidence and marked Exhibit 55 of this date.)

Mr. Richards.— I read the check (reading):

"Peter Doelger Lager Beer Brewery. Bottling Department.
"7375. NEW YORK, *Oct.* 14, 1912.

"Pay to the order of William Sulzer Two hundred and fifty and 00/100 dollars. $250.00.

"To the Yorkville Bank of New York.

"PETER DOELGER,
"CHARLES P. DOELGER."

October 14, 1912, the date of this check, is the same date as the Schiff check.

Endorsed with a stamp, "Wm. Sulzer. L. A. Sarecky. Pay to the order of the National Bank of Commerce. Oct. 19, 1912. Mutual Alliance Trust Company of New York, 35 Wall Street."

Then, a receipt for payment by the Bank of Commerce.

I call the attention of the Committee to the fact that this, like the other checks that we have put in evidence, which were not reported, were made and paid before Governor Sulzer went away on his trip campaigning.

I also offer in evidence a voucher which I will not read — yes, I will read it and have both marked, the letter and voucher together accompanying the check. Please mark them.

(The letter and voucher were received and marked Exhibit 56 of this date.)

Mr. Richards.— I will read first the voucher (reading):

"Peter Doelger First Prize Lager Beer Brewery, 55th Street to 56th Street and 1st Avenue, New York.

"To Wm. Sulzer Care of Charles Stadler, A. M. Co., 63d Street and East River.

"Dated, October 14, 1912.

"For bill attached, campaign contribution."

Then, underneath (reading):

"Check mailed to Mr. Stadler. No receipt necessary."

Q. What is the name? A. To which do you refer?

Q. This name under "No receipt necessary." Somebody signed it. A. That is probably the cashier's initials, J. M. G., by order of.

Q. J. M. G., by order of P. D. Jr. Peter Doelger, Jr. Attached to it is a letter (reading):

"Charles A. Stadler, Foot of 63d Street and East River.

"NEW YORK, *October* 15, 1912.

"PETER DOELGER, Jr., Esq., 55th Street and 1st Avenue, New York:

DEAR FRIEND.— Your check to the order of Mr. William Sulzer for $250 was received this morning, and I shall be very glad to hand it to Mr. Sulzer to-day.

"Thanking you in his behalf, I am

"Very sincerely yours,

"CHARLES A. STADLER."

Q. Do you know who Mr. Stadler is? A. Yes, sir.

Q. What is his relation to the brewery, if any? A. None.

Q. None at all. Is he a friend of Mr. Doelger's? A. Yes.

Q. What is his business? A. I believe he is connected with the American Malting Company.

Q. American Malting Company. That is evidently the A. M. Co., 63d street and East River. A. Yes, sir.

Q. Do you know whether or not Mr. Stadler — you must know something about the nature of that business — has any connection with Mr. Simon Ulmann, who is in the hop business at 17 Battery Place, whether Mr. Simon Ulmann is connected with that concern? A. I don't.

The Chairman.— Mr. Richards, you will have Mr. Horgan give a receipt to this gentleman for that check.

Mr. Richards.— Yes.

The Witness.— Check, voucher and letter.

(Witness excused.)

(Adjourned to August 8, 1913, at 12:15 P. M.)

COUNCIL CHAMBER, CITY HALL,

NEW YORK, *August* 8, 1913.

Pursuant to adjournment, the Committee met at 12:15 o'clock P. M.

Present:

For the Senate.
Hon. James J. Frawley, *Chairman,*
Hon. Felix J. Sanner,
Hon. Samuel P. Ramsperger.

For the Assembly.
Hon. Myron T. Smith.

Appearances:
Eugene Lamb Richards, Esq., Counsel to the Committee.
Matthew T. Horgan, Esq., Secretary.

The Chairman.—Are you ready, Mr. Richards?

Mr. Richards.— Yes.

The Chairman.— Gentlemen, please come to order.

Lyman A. Spalding, a witness called by the Committee, having been first duly sworn by the Chairman, testified as follows:

The Chairman.— What is your name, please?

The Witness.— Lyman H. Spalding.

Mr. Richards.— Will you try and get order, Mr. Chairman, we can't hear in the chamber at all.

The Chairman.— Now, you will kindly remain quiet, gentlemen, so that the questions can be heard by counsel, the newspapermen and yourselves. Now, if you won't keep quiet we will have to ask the proper authorities to direct you to leave the Chamber.

Examination by Mr. Richards:

Q. Mr. Spalding, where do you live? A. 80 East Washington Square, New York City, Borough of Manhattan.

Q. Are you a lawyer by profession? A. I am.

Q. Did you make a contribution to Governor Sulzer's campaign fund? A. I did.

Q. Did you make it by check? A. By check.
Q. Will you produce it please? A. I will.

(Witness produces check.)

Q. How did you transmit that—

Mr. Richards.— Just wait a minute.

Q. This is the paper that you produced as the check? A. Yes, sir.

Mr. Richards.— Will you mark that please, Mr. Stenographer.

The check was received in evidence and marked Exhibit 57 of this date.

Q. If you remember, how did you transmit that check? A. That check was delivered by me to one of my friends, at the Manhattan Club, to be delivered to Mr. Sulzer.
Q. Yes? A. And I subsequently learned that it had been delivered to him.
Q. Did you get any letter of acknowledgment? A. I received no letter of acknowledgment of any kind.
Q. Who was the friend that handed it to you? A. Well, my best recollection is that it was Judge Lewis J. Conlon, but if he said that it was somebody else in the same party, I would not dispute him.
Q. It is a party that was contributing or giving money for this purpose here at the club? A. Yes, there were a number of gentlemen there at the club.

Mr. Richards.— I will read Exhibit 5. (Reading) "No. blank. New York, October 10th, 1912. Fulton Trust Company of New York, Pay to the order of William Sulzer $100 ($100) William A. Spalding." And then on the face of the check (reading) "Certified or accepted by the Fulton Trust Company," with the usual certification mark. On the back in handwriting — and I say that it is pretty clear that it is the handwriting of William Sulzer himself "William Sulzer." And then, "Manhattan Club, received payment, New York Clearing House, October 17, 1912, Second Teller."

Q. You have no other documents or letters or anything relating to this check? A. No. I think there is another indorsement on there that you have omitted.
Q. I couldn't see that. A. Boyer, Griswold & Company.

Mr. Richards.— The witness calls my attention to an indorsement that escaped my notice, which I thought ought to be on the check, and it is on the check. (Reading) " Pay to the order of the Manhattan Company, New York, Boyer, Griswold & Company." And then the stamp of the Manhattan Company.

Q. That is all that you have. Will you let the Committee have this, and we will give you a receipt, Mr. Spalding? A. I will.

Mr. Richards.— Thank you very much. That is all.

The Chairman.— Thank you, Mr. Spalding. The Secretary will give you a receipt.

Mr. Richards.— Is Mr. Mammert here, from Mr. Theodore W. Myers' office?

Arthur Mammert, a witness recalled for further examination, testified as follows:

Examination by Mr. Richards:

Q. Mr. Mammert, you have sworn before, yesterday, I think? A. Yes, sir.

Q. And you were questioned with regard to certain checks of Theodore W. Myers? A. Yes.

Q. At my request this morning have you produced a check for $1,000? A. Yes.

(Witness produces check.)

Q. A check for $1,000 dated about the 16th day of October and subsequently deposited in the Bank of the Manhattan Company; have you produced such a check? A. I have such a check, October 10th.

Q. October 10th, yes. A. Yes.

Q. Is that check signed by Mr. Myers himself? A. Yes, sir.

Q. You do not know anything about its delivery? A. No.

Q. You just find it among his papers? A. Yes, sir.

Mr. Richards.— I offer that in evidence.

Received in evidence and marked Exhibit 58, August 8, 1913.

Q. You have not correspondence or letters or anything relating to this check or any other matter between Mr. Myers and Governor Sulzer? A. No, sir.

Q. This reads No. 10550, New York, October 10, 1912, to the

Farmer's Loan and Trust Company, pay to the order of bearer one thousand dollars, no dollars, one thousand dollars, Theodore W. Myers, and that was accepted or certified by the Farmers Loan and Trust Company. It is endorsed pay to the Bank of the Manhattan Company, Boyer, Griswold & Company. It is very indistinct. That was deposited in the Manhattan Company Bank on October 16th, and I will say this, that the check of Mr. Spalding was deposited on October 16th in the Bank of the Manhattan Company.

Mr. Richards.— Is that all, Mr. Mammert? We will give you a receipt for this. Is the Frank V. Strauss Company here?

Richard M. Huber, a witness being duly sworn, testified as follows:

Examination by Mr. Richards:

Q. What is your name, sir? A. Richard M. Huber.

Q. And you live here in New York? A. Yes, sir.

Q. And you are employed by the Frank V. Strauss Company? A. Yes, sir.

Q. In what capacity, how are you connected with them? A. Secretary of the company.

Q. Secretary of the company? A. Yes, sir.

Q. Have you been subpoenaed to produce a check of the Frank V. Strauss Company for $1,000. A. Yes, sir.

Q. To the order of William Sulzer or anyone for him? A. Yes, sir.

Q. Have you made a search for such a check? A. Yes, sir.

Q. Have you found such a check? A. No, sir.

Q. Where is Mr. Strauss himself? A. Mr. Strauss is somewhere in Germany.

Q. How many bank accounts has that company got? A. Two.

Q. Have you made a search of the canceled checks of both accounts? A. Yes, sir.

Q. I call your attention to the date of October 16, 1912, a check from the Frank V. Strauss Company for $1,000. I want to know if you found any sign of that; have you found any sign of that check? A. No, sir.

Q. I do not mean on that day? A. No check to William Sulzer.

Q. I am not talking about that; to anyone on that date; a check to bearer or any other person? A. No, no check to bearer.

Q. Or to Mrs. Sulzer? A. No check to Mrs. Sulzer.

Q. I want to get at what you found with reference to a $1,000 check on that date, October 16th, what did you find? A. I found nothing.

Q. You did not find anything? A. That would lead to that.

Q. What do you mean? That would not lead to that; did you find a check for $1,000 made by Frank V. Strauss Company to somebody's order about that date? A. No, sir.

Q. You did not find that? A. No, sir.

Q. You stated, did you not, to me, before the hearing, that you did not want to produce any such check? A. I could not have produced any such check.

Q. Did not you state that you did not want to produce it if you did find it? A. Not until I had a chance to communicate with Mr. Frank Strauss.

Q. And whether you have got it or have not got it you do not want to produce that check until you hear from Mr. Frank V. Strauss? A. Exactly.

Q. Where is Mr. Frank V. Strauss? A. Somewhere in Germany.

Q. Have you communicated with him since you were served yesterday? A. I cabled him last night at the last address I knew of.

Mr. Richards.— I think, if the Chairman please, that the witness should be directed to make a search for this. Of course we do not want to press him in the absence of Mr. Strauss, who, of course, is the head of the firm, but I think he should be directed to make a search for a check for $1,000 sometime before the 16th of October, 1912, and undoubtedly during that month, which was subsequently endorsed with this stamp: "Pay to the order of Boyer, Griswold & Company," and deposited in the Bank of Manhattan Company, and probably certified. I want to have the witness directed to make a search for that check, and in the meanwhile if he has an opportunity, if he hears from Mr. Strauss, I will ask him to bring that check here.

The Chairman.— Will you do that?

The Witness.— Yes, sir.

The Chairman.— He says he will do that, Mr. Richards.

Mr. Richards.— That is all.

Mr. Richards.— Mr. Reynolds, will you take the stand, please?

Charles A Reynolds, called as a witness and being duly sworn, testified as follows:

Examination by Mr. Richards:

Q. Mr. Reynolds, where do you reside? A. Brooklyn.

Q. What is your business? A. I am a cashier.

Q. Are you connected with any brokerage firm now? A. No, sir.

Q. Were you connected with the brokerage firm of Boyer, Griswold & Company, in October of last year? A. I was.

Q. And what was your position there? A. Cashier.

Q. Did you have charge of the books of the concern and the payments for stock and deliveries of stock generally? A. Yes, sir.

Q. In October, 1912, did you have some stock transactions with Mr. Frederick L. Colwell? A. Yes, sir.

Q. Did Mr. Colwell purchase stock for your firm? A. Yes, sir.

Q. Was that stock delivered to Mr. Colwell? A. To the best of my knowledge it was.

Q. Since yesterday, have you examined the old books of the concern and made a transcript from them from where they are in storage or in the old office? A. I did so, yesterday.

Q. I will show you a paper, and ask you whether or not that is true transcript of the account of Mr. Colwell? A. That is.

Q. The only account there is of Mr. Colwell? A. So far as I know.

Mr. Richards.— Mark that, please.

(Paper was received in evidence and marked Exhibit 59 of this date.)

Q. That relates to the purchase and delivery of the stock? A. Yes, sir.

Q. I also want to know whether you have made a transcript of the payment of the stock and the consideration which was received that stock from the books? A. Yes.

Q. Is the paper that I show you a transcript of that? A. Yes.

Q. A true transcript is that right? A. Yes.

Mr. Richards.— Mark that, please.

(The paper was received in evidence and marked exhibit 60 of this date.)

Mr. Richards.— I will exhibit 59 first (Reading) "Debtor, F. L. Colwell, in current account with Boyer & Griswold on the debit side under date of 1912, October 16th, 200 shares C. C. C. & St. L. Price 60, total amount $12,025. On the other side date October 16th, on the credit side, 200 shares, C. C. C. & St. L. delivered $12,025.

Q. Was that stock bought and delivered the same day? A. It was.

Q. It was a cash transaction as you call it? A. A cash transaction.

Mr. Richards.— I now read the rest of the transcript, which shows how this was paid for. It was paid for by one check, eight checks and a large amount of currency. The first check is a check by William Sulzer for $900; the second check is the one by Theodore Myers for $1,000.

Q. Right there, you have got that Theodore W. Alpers. You would not be sure that is spelled that way on the book? A. No, it was taken from the check.

Q. It was? A. Yes.

Q. And it may have been Theodore W. Myers? A. Yes.

Mr. Richards.— I don't want to read it Theodore W. Myers, although I am convinced it was.

Q. You would not be sure Alpers was written there, didn't you Myers, the "ers" being the same? A. I would not say—

Q. I show you exhibit 58, and ask you whether you recognize the check, and see whether or not that is not the very check that is referred to on your transcript. Look at the signature. A. I would not recognize the check, but I recognized the indorsement of Boyer, Griswold & Company.

Q. That is your own indorsement by your rubber stamp? A. Regular rubber stamp.

Q. And deposited in the Manhattan Company on the 16th of October, 1912? A. That is right.

Q. I ask you to look at the signature and see whether or not you could not have mistaken Myers for Alpers? A. That is possible.

Mr. Richards.—The next check John Lyon, $500. Have you got that John Lyon check?

(Mr. Horgan produces check.)

Mr. Richards.— Spelled here L-y-o-n. It is spelled that way on the transcript.

Q. I ask you to look at the check dated October 10th, and bearing the firm's stamp and the payment by the Manhattan Company and see if that is not the check referred to as the third check on this list? A. I should say that it was.

Q. You have no doubt about it? A. No.

Mr. Richards.— The witness refers to Exhibit 48, check of John Lyon.

Q. The fourth check is Lyman A. Spalding? A. $100.

The next check is Edward F. O'Dwyer, $100.

The next check is John W. Cox, $300.

The next check is Frank V. Strauss & Company, $1,000.

The last check is John T. Dooling, $1,000.

Making a total of checks of $4,900. The balance of the consideration was $7,125 in currency, making a total of $12,025, which corresponds to the statement of the purchase on the stock book, the exact amount.

I also call the attention of the Committee before proceeding further, to the fact that on William Sulzer's personal account in the Farmers Loan & Trust Company under date of October 16, his account is debited with a check drawn on October 16th, for the sum of $900, the exact amount on the transcript of Boyer, Griswold & Company. It further appears that this stock was bought from Jewett Brothers and the certificates are numbered as follows: C.18866, and 25,884. That is all, Mr. Reynolds. I am much obliged to you.

(Witness excused.)

Mr. Richards.— Mr. John T. Dooling here? (No response.)

Mr. Richards.— I have subpoenaed Mr. Dooling to produce a check for 1,000 about that date. He has not arrived.

Mr. Sutton here?

Effingham E. Sutton, called as a witness, and being duly sworn, testified as follows:

Examination by Mr. Richards:

Q. Where do you live, Mr. Sutton? A. Pleasantville, New York.

Q. Have you been at any time connected with the firm of Fuller & Gray, bankers and brokers? A. I have.

Q. When did that connection begin? A. June 1, 1912.

Q. Were you in their employ in 1912? A. I was.

Q. Do you remember in connection with the firm of Fuller & Gray an account known as No. 500? A. I do.

Q. What did you know first in connection with that account? A. Mr. Gray.

Q. And then did Mr. Colwell have charge of it? A. No, Mr. Gray took charge of it.

Q. Mr. Gray took charge of it. Did Mr. Colwell speak in connection with it? A. Well, not until on or about April 12th.

Q. About 13th of April? A. Yes.

Q. Do you remember purchasing stock for that account for 200 shares of Big Four? A. I do.

Q. Do you remember being telephoned for to come and get the stock? A. Yes.

Q. Were you on the telephone when the message was received? A. I was.

Q. Where did that telephone message come from, as far as you know? A. I believe it came from New York.

Q. You were in Yonkers? A. No, I was in the Brooklyn office.

Q. In the Brooklyn office. Who was there? A. Joseph L. Herrick, he was cashier.

Q. How about Mr. Coe? A. He was not there.

Q. I am not talking of the April transaction, I am talking of the October transaction? A. Mr. Coe was not there, he was in Yonkers, I think.

Q. Did you telephone to Mr. Coe? A. No.

Q. Didn't you have something to do with getting Mr. Coe to go up and deliver it? A. I remember you told me something yesterday? A. I received a telephone message from Mr. Gray to be prepared to deliver 200 shares of Big Four by a quarter after three. It had to be over in New York at that time. Previous to that time the stock had been carried on margin for about two weeks I imagine, and I sent one of the clerks to Harris & Fuller, Harris & Fuller at that time cleared our stock, and Harris & Fuller delivered 200 shares of Big Four for us, and I made out the receipt for 200 Big Four, and Mr. Coe previous to this had — I don't exactly know what amount — Mr. Fuller stated it right, as I remember.

Q. How much? A. I think it was about $8,000.

Q. Deposited that? A. With the exception of $14.

Q. Who signed that receipt for the stock? A. Mr. F. A. Coe.

Q. Did you afterwards have a talk wiith Mr. Coe as to what he did with that stock? A. Several months later, yes.

Q. What did he say as to the delivery of the stock, the stock he delivered? A. After he found out I knew who the account was for, he told me he had delivered it to Mr. Sulzer's office.

Q. You knew at the time that this account 500 was there in the office that this was Mr. Sulzer's account, did you not. A. Not at the time the stock was delivered.

Q. Not after, but you learned it? A. I learned it, yes.

Q. How did it come to get the name of 500? A. I gave it myself I guess.

Q. You have one or two accounts that don't have the customer's name on? A. Yes.

Q. And this was one requested not to have the customer's name on, and you were there, and somebody suggested that you give it a number, and you gave it 500? A. No, Mr. Gray previous to that said he intended to open a new account, and he suggested a number, and I said 500. That is all.

Q. How did you find out that was William Sulzer's account? A. Mr. Gray informed me. He was rather proud of the fact and he informed me a couple of minutes later.

Q. Mr. Gray, a member of the firm, made the statement to you that it was Mr. Sulzer's account? A. Yes.

Mr. Richards.— That is all.

(Witness excused.)

Mr. Richards.— Is Mr. Coe here?

Frederick Coe, a witness called by the Committee having been first duly sworn by the Chairman, testified as follows:

Examination by Mr. Richards:

Q. Mr. Coe, where do you live? A. Yonkers.

Q. You will have to speak louder. There is so much noise here.

The Witness.— 406 North Broadway, Yonkers.

Q. Are you connected with the firm of Fuller & Gray? A. I am in their employ.

Q. And have been connected with them for some time? A. Since they started business.

Q. Were you connected with them in any capacity in October, 1912? A. Yes.

Q. What was your position? A. Why, it is in a branch office in Yonkers, I do a little of everything.

Q. You were practically in charge of the branch office? A. No, sir, Mr. Hart is the manager.

Q. What would you call your position? A. Well, assistant, there are only two of us there, Mr. Hart and myself and the board boy.

Senator Ramsperger.— We can't hear.

The Witness.— I say there are only two of us there; Mr. Hart, the manager, and myself, besides the board boy.

Q. Mr. Hart, the manager, and the board boy? A. And myself.

Q. And yourself. Do you remember being telephoned for to go and get and deliver or get some — to get 200 shares of Big Four in October, 1912? A. I do.

Q. Do you remember going and getting it? A. I do.

Q Where did you go to get it? A. I went to 200 Montague street, Brooklyn office.

Q. Was Mr. Sutton, the last witness — was he located there? A. He was there.

Q. He was there and made out the receipt for you to sign? A. If I remember right, I did.

Q. And you signed it? A. I signed it.

Q. And what did you — what instructions did you get as to where you were to deliver the stock? A. I was to meet Mr. Frederick Colwell in the Temple Bar building and deliver it to him.

Q. You were to meet Mr. Frederick Colwell in the Temple Bar building? A. In Brooklyn, in the Nassau Bank.

Q. In the Nassau Bank? A. Yes, sir.

Q. And did you do that? A. I did.

Q. Did you turn this 200 shares over to him? A. I did.

Q. Did you take a receipt from him? A. He either gave me a receipt then or the day after, yes.

Q. Is that receipt in your office? A. No, sir.

Q. What has become of it? A. I don't know. Well, Fuller & Gray have it, of course.

Q. I wasn't referring to your particular office? A. I don't know.

Q. I supposed it was in your New York office? A. I don't know.

Q. Before this time had you known anything about this account? A. No, sir.

Q. Had you had anything to do with it in the way of deposits being made on it? A. No, sir, not that I remember; I don't remember.

Q. You remember what the account was, how was it numbered, how it was numbered, don't you? A. I do not.

Q. You don't remember that? A. No, sir.

Q. Your transaction was simply, when you were telephoned for, was to go and get this stock? A. Yes, sir.

Q. And who directed you to deliver it to Mr. Colwell? A. Well, that is what I can't positively remember.

Q. Where did that direction come from? A. It came by telephone, either from Brooklyn or New York; I don't remember which.

Q. And when you arrived at Brooklyn, you found Mr. Sutton there, and he made out this receipt which you signed? A. If he did; I don't remember whether he made it out; I signed the receipt.

Q. But you signed a receipt? A. Yes.

Q. Do you know anything about, by way of any statement afterwards or at any time, what Mr. Colwell did with that stock? A. I do not.

Q. You don't know anything about it? A. No.

Q. Your connection with it ceased? A. Yes.

Q. Didn't you say anything to Mr. Sutton about delivering it to Mr. Sulzer or to Mr. Sulzer's office? A. No, sir; I never heard of Mr. Sulzer's name except in connection with the Governorship at the time.

Q. Afterwards? A. I don't know.

Q. He doesn't mean that you spoke of it when you came back, but later? A. No.

Mr. Richards.— That is all.

Examination by the Chairman:

Q. Mr. Coe, how long before this transaction had you known Mr. Colwell? A. Oh, not very long; a few weeks; or maybe a month; I don't know; I probably was introduced to him in the summer.

Q. In the summer? A. Yes, sir.

Q. And you met him at various times? A. Oh, once in a while he came into our office at Yonkers, but very seldom; he came in to telephone as much as anything.

Q. Well, the reason that you were designated to deliver the stock to Mr. Colwell was on account of your acquaintance with him and knowing him? A. I knew him personally and I was to meet him in the Nassau Bank. I knew Mr. Colwell then.

The Chairman.— That is all.

Mr. Richards.— That is all, thank you.

Assemblyman Yard.— Just a moment, Mr. Richards.

(Assemblyman Yard and the Chairman here engage in a consultation.)

Mr. Richards.— Just one thing more.

By Mr. Richards:

Q. Didn't Mr. Gray tell you that this was Mr. Sulzer's account? A. He did not.

Mr. Richards.— That is all.

(Witness excused.)

Mr. Richards.— Is Mr. Colwell here?

(No response.)

Mr. Richards.— Is Mr. Colwell here.

(No response.)

Mr. Richards.— Won't you see if he is outside, because he has been here this morning, I think.

(The Sergeant-at-Arms retired from the room to get the attendance of Mr. Colwell.)

Mr. Richards.— Just a moment, Mr. Chairman, I want to see a witness a moment.

(Mr. Richards retired from the chamber and returned after a few minutes absence.)

Mr. Richards.— Did Judge Olcott come yet?

Mr. Olcott.— Right here, Mr. Richards.

Melville B. Fuller, a witness, recalled, for further examination, testified as follows:

Mr. Olcott.— If your Honor please, before Mr. Fuller is sworn —

The Chairman.— Mr. Fuller is already under oath.

Mr. Olcott.— I was not present at the hearing before. Before you proceed with his examination, through your own already expressed courtesy of the Commission, and that of Mr. Richards, I want to just say a word on the subject of his refusal to answer questions the other day, and the fact that he now presents himself ready to answer all the questions which are asked him. His refusal the other day was based upon the custom, which is to them a law and a moral right of brokers never to reveal any of their books so far as their customers' accounts are concerned. Since that we have had a conference with Governor Sulzer and his representatives, and the Governor agrees that without further contest, without any contest on his part, that Mr. Fuller's lips should be unsealed. Now, having that waiver from the customer, Mr. Fuller feels at liberty to answer your questions. I thank you for the privilege of this statement of his position in the matter.

Examination by Mr. Richards:

Q. Mr. Fuller, you were subpoenaed on Wednesday to produce certain books of account relating to the account of William Sulzer, either under that name or any other name or number in your firm? A. I was.

Q. And have you now produced those books? A. I have.

(Witness produces books.)

Q. Now, Mr. Fuller, what books have you produced in response to that subpoena? A. I have my letter books and a copy of Governor Sulzer's account.

Q. A transcript of his account? A. Yes, sir.

Q. Will you kindly produce that? A. Yes, sir.

Q. Is this here (indicating statement) Governor Sulzer's account, and was there an account for the year previous to 1912? A. This is a transcript. I understood you wanted from the first of January.

Q. I did. I only asked whether this is brought over from a prior date? A. Yes, sir, carried forward.

Q. Then on January 1st it was carried over? A. 1912.

Q. January 1, 1912, there was carried over what, according to that statement?

Mr. Richards.— I offer that statement in evidence.

(Received in evidence and marked exhibit No. 61, August 8, 1913.)

The Witness.— On January 1, 1912, Governor Sulzer had in our office 500 shares of C. C. C.; 200 shares of American Smelters; and 100 shares of So. Pacific.

Q. That is not C. C. C. C.? A. No, that is C. C. C.

Q. I just wanted to make sure, because we have had some C. C. C. C. that is the St Louis Stock? A. The same stock.

Q. The same stock as C. C. C. & St. L.? A. Cincinnati, Chicago, Cleveland & St Louis.

Q. Exactly. Now, what was the total value of those stocks on January 1, 1912? A. I could not tell you.

Q. What were they carried at? A. Do you want to know what that amounts to?

Q. Yes? A. What he owed us against them?

A. Yes? A. $48,599.38.

The Chairman.— Order, please.

Q. Now, on the same side, that is the debtor's side of the account, certain interest charges have been charged up against his account? A. Yes, sir.

Q. And then, in this year, there were certain purchases and sales made, or purchases? A. This year?

Q. Yes? A. Yes.

Q. Will you state what the balance of that account shows in your own language; what that indicates in the way of purchases and sales up to the present time? A. The account shows that on December 5, 1912, 100 shares of C. C. C. were bought at 52. That is the only purchase during this period from January 1, 1912, down to date.

Q. Now, the credits. The credits of cash or its equivalent. Beginning in 1912 and coming down to the present time. In other words, what payments were made into your firm for the account of this, on account of margin or as security for these stocks? A. November 18, 1912, cash $10,000. December 16, cash $6,000. January 16, 1913, check from A. E. Spriggs $5,000. Those are the cash credits.

Q. That is what I want. Were there any other dealings in stocks on that side of the account shown by the transcript? A. Yes, sir.

Q. Tell us what those were? A. The sale of 100 shares of So. Pacific on July 9, 1913, $9,248.

Q. And you loaned him money in June, did you not? A. That is the same thing.

Q. Well, then, has this account since been closed? A. Yes, sir.

Q. When was it closed? A. July 15th, 1913.

Q. July 15, 1913? A. Yes.

Q. And what was his debit balance? What did he owe your concern before the account was closed; how much money did he owe you? A. After we deducted the $9,248 which we received for the sale of the 100 shares of Southern Pacific he owed us $26,739.21.

Q. Did he pay that and take up the stock that you are carrying for him? A. He did not, sir.

Q. Did someone for his account? A. Yes, sir.

Q. Who took them up and paid for them? A. Lieut. Commander L. M. Josephthall according to my books.

Q. What was the payment that Josephthal made to close up this account? A. $26,739.21.

Q. What are the total transactions on either side of the account interest, loans, purchases, etc. There is a total on either side of the credit and debit account? A. The latest account.

Q. I mean these footings showing total. A. That does not show absolutely on this account.

Q. Is this the only account you had of William Sulzer? A. Yes, sir.

Q. And was this account carried with Governor Sulzer under his name? A. Yes, sir.

Q. Was not it changed to a number at one time? A. No, sir.

Q. It never had the number 63? A. No, sir.

Q. Had you got an account of No. 63? A. Not that I know of.

Q. Could you find that out by looking at your book, when you leave the stand will you look at your books and find out? A. I will find out for you in five minutes.

(The witness directs a clerk to telephone to his office and find out if their firm has an account known as Account No. 63.)

The Witness.— I am wrong about that No. 63. This is No. 63, the account of William Sulzer on my books.

Q. Was it generally known in the office as William Sulzer's account or was it known as Account No. 63? A. It was known in the office as William Sulzer's account.

Q. How does it come to have a number also? A. I could not explain that.

Q. Is not that rather unusual? A. It is often customary, if we want to carry on business for a man who does not want to be known in our office, that we give the account a number, and only the members of the firm know about it. But in this case as there is a number 63, on this account, and Mr. William Sulzer's name also, it appears that it was common property.

Q. You are pretty sure about that; you are clear that it was not changed from the name to a number in this year; that is what I want to get at? A. No.

Q. You are not sure when it was changed? A. My partner says no.

Q. There never was any change? A. No.

Q. It always has been William Sulzer and No. 63? A. And No. 63, and that appears in my book.

Q. Between the two of you can you explain how it is that the account has a name on it of a person who is responsible for it, why that should also have a number? A. My partner says that was so that when it was referred to it was referred to as No. 63 instead of the Governor Sulzer Account, so that everyone in the office would not hear it.

Q. That is what I want to get at. A. I am trying to explain it to you.

Q. I supposed that is why it was; so that your employees would not know about this particular account? A. I would not say that; the customers, the people outside.

Q. I see, the people generally; in view of his position this was given a number so that when it was discussed where anybody could hear — A. That's it.

Q. Referring to the two items on the credit side of this account can you or anybody else tell me whether or not the two items, November 18, 1912, and December 16, 1912, were currency? That is, whether it was a cash, a bills transaction, a transaction in bills? A. November 18, 1912, was cash bills. December 16, 1912, it was cash.

Q. Was there any other cash transaction on that side of the account, that is bills? A. No.

Q. Have you any letters or copies of letters from you to Governor Sulzer in regard to this account? A. I have.

Q. And letters by him to you? A. Yes.

Q. Will you kindly produce them? A. The letters written to the Governor I have here.

Q. The copies? A. There is a letter we received from the Governor which was not sent to Judge Olcott's office, but I have sent back for it.

Q. One of the original letters from him? A. Yes, sir. I have them here.

Q. When was that letter received? A. It is dated December 12, 1912.

Q. Please produce it? A. This is not from Governor Sulzer by the way, it is from his secretary.

Q. That is, September 12, 1912? A. September 12, 1912.

Q. You have a letter which was written to you to which this was an answer, will you just turn to that and see what that letter is. December 12, or just prior to December 12, 1912, just between election and inauguration.

(Witness examines letter book.)

A. I have it, sir.

The Chairman.— Mr. Richards, what enlightenment will the committee receive by this letter?

Mr. Richards.—With regard to advances for margin, the necessity for these various payments.

Q. Will you first read the copy of the letter that you wrote to Governor Sulzer? A. "December 11, 1912. Hon. William Sulzer, Washington, D. C. Dear Sir.—As you no doubt are aware, a panicky condition has existed in the market for the past few days. We would therefore appreciate a deposit from you. Thanking you in advance, we are, very truly yours, Harris & Fuller."

Q. And you received the letter I show you in reply, signed by his secretary, will you kindly read that? A. "Your letter to Congressman Sulzer just received. He will be glad to take the matter up with you when he comes to New York, the first of the week, believe me, very sincerely yours,—" I cannot read the writing of the signature. It is his secretary. I do not know what the name is.

Mr. Richards.— F. A. Sistner, Secretary.

Q. Shortly before this account was taken up there was a similar demand made for margins or something to cover this account? A. Just before the account was taken up?

Q. Yes. When it went out of your office? A. Yes.

Q. Will you please turn to that letter or a copy of it. A. When the account was taken up?

Q. I think that letter was in June. I want to have you read those letters calling for more margin? A. July 9, 1913.

The Chairman.— Excuse me, Mr. Fuller, just a moment. Kindly retain better order there, please.

The Witness.—"June 9, 1913, Hon. William Sulzer, Executive Mansion, Albany, New York. Dear Sir.— We sent you a telegram last week stating that we would like to have an interview with you, but as yet have not received any reply. It is very important that we should get in communication with you immediately, and we would therefore thank you to advise us upon receipt of this letter where and when we can see you. Yours very truly, Harris & Fuller."

Q. And there was a later letter? A. "June 11, 1913. Hon. William Sulzer, Albany, N. Y., Dear Sir.— We have been endeavoring for a number of days to get in touch with you in reference to the condition of your account, it being very bad and weak — without any — there is something there, I cannot read that word — without any reply until this A. M., when we are advised that you would meet us on Saturday, June 14th, at the Waldorf, which arrangement is not at all satisfactory, owing to the freakish and uncertain condition of the market. We must insist upon immediate attention to this very important matter. Therefore we request a deposit of $15,000 at once to bring your account up to the required margin. Failing to comply immediately with our demand we ask you to take up for transfer the account forthwith, as we would rather have you do that than compel us to sell you out. Your indifference necessitates our taking this method of calling your attention to what we believe is of vital interest to yourself. We are of the opinion that after you realize the importance of promptness you will immediately comply and oblige us with the amount we request. Hoping to hear from you either by wire or telephone immediately upon receipt of this communication, we are, yours truly, Harris & Fuller."

Q. The result of this communication, was that finally something

over twenty-six odd thousand dollars was paid by Mr. Josephthal and the account taken up, is that right? A. It was something after, he gave us the money. There was a check of Sprigg, before the account was taken up.

Q. The first thing then was the check of Sprigg? A. Yes.

Q. Then one of these stocks was sold? A. Yes.

Q. And finally Josephthal took up the account? A. Yes.

Q. Closed it out on the 15th of July? A. That is right.

Q. Do you know anything about who A. E. Spriggs is? A. No, I do not.

Mr. Richards.—I think that is all.

The Chairman.— Thank you very much, Mr. Fuller.

Mr. Richards.— Is Mr. Colwell here?

(No response).

Mr. Richards.— Please call him on the outside.

Mr. Richards.— Mr. Chairman, Mr. Josephthal is in Europe and has been in Europe for some time. I believe he is expected back pretty soon.

The Chairman.— Mr. Colwell in the Chamber?

Mr. Horgan.— He is not outside.

The Chairman.— I ordered him to remain under subpoena.

Mr. Richards.— Is John T. Dooling here?

John T. Dooling, called as a witness being duly sworn, testified as follows:

Examination by Mr. Richards:

Q. Mr. Dooling, where do you live? A. 179 East 80th street.

Q. You are a lawyer in this city? A. I am.

Q.. You have been subpoenaed to produce a check for $1,000, given about the 16th of October, which was subsequently deposited to the account of Boyer, Griswold & Company, and afterwards into the Bank of the Manhattan Company, have you produced that check? A. I don't know anything about such a check.

Q. You never saw such a check? A. I never saw a check with such endorsements, no, sir.

Q. Did you in October, 1912, give a check for $1,000 to Governor Sulzer or any [illegible]presenting him? A. I decline to answer that question.

Q. Mr. Dooling, there was testimony here that on the books of the brokerage firm of Boyer, Griswold & Company a check passed through that firm's account signed by John T. Dooling for $1,000. Do you know anything about such a check as that? A. I never saw any endorsement on any check of mine bearing those names.

Q. I am not asking you about the endorsement; I am asking whether you have seen such a check? A. I don't recall ever seeing such a check.

Q. You don't recall ever having given such a check? A. I don't recall ever seeing such a check.

Q. I am asking you whether you recall having ever given such a check? A. I decline to answer any questions of that sort.

Mr. Richards.— I think the witness should answer this very plain question, which is necessarily involved in the evidence already given. I have no desire to put Mr. Dooling to any embarrassment, but here is evidence which shows clearly that a check either signed or coming from John T. Dooling went through the banks of this brokerage firm, and paid for stock which was handed to Mr. Colwell, and I think the Chairman should direct Mr. Dooling to give this information if he has, or if he has not got it, of course—

The Chairman.— Have you got the check in your possession, Mr. Dooling?

The Witness.— I have no such check.

Q. Will you search, Mr. Dooling, for it, and if so, send it to Mr. Richards?

The Witness.— I will be very glad to search.

Mr. Richards.— That is all then.

(Witness excused.)

Mr. Richards.— Now, is Mr. Colwell in the room?

(No response.)

Mr. Richards.— Is Mr. Colwell in the room?

(No response.)

Mr. Richards.— Well, Mr. Chairman, I have one more witness who won't be here until three o'clock, and I think we better take a recess.

The Chairman.— Until three o'clock to-day?

Mr. Richards.—Yes, Yes. Do you want to get away to-day, Mr. Chairman?

The Chairman.— Well, if you have something important for the Committee.

Mr. Richards.— Well, I think that it is a matter that we can take up at another hearing, possibly. It is of some importance. It is a new question of campaign contributions. But if the Chairman thinks we have done all that is necessary for him to do here, I will bow to the decision of the Chair.

The Chairman.—No, I don't want you to understand it that way, Mr. Richards. The Committee is here for a specific purpose, and if you have evidence to present to this Committee we are ready at any time and all times to hear you. As I understand, you desire to be heard to-morrow morning?

Mr. Richards.— To-morrow morning will be all right.

The Chairman —At ten o'clock to-morrow morning?

Mr. Richards.— Make it 10:30.

The Chairman.— I beg your pardon. Just a moment.

(The Chairman and Mr. Horgan here went into consultation.)

The Chairman.— Mr. Richards.

Mr. Richards.— Yes, I am coming.

The Chairman.— If you will step here a moment, we may be able to fix it up.

(Counsel and the members of the Committee here went into consultation.)

The Chairman.— This Committee will now stand adjourned until the call of the Chair. The matters which Mr. Richards has in mind will be taken up at a subsequent time; not to-morrow, there will be no session to-morrow. There will be no hearing to-morrow.

Mr. Richards.— There will be nothing more this week.

The Committee thereupon, at 1:50 o'clock p. m., adjourned subject to the call of the Chairman of the Committee.

Next Exhibit No. 62.

STATE OF NEW YORK

PROCEEDINGS

OF THE

Joint Committee of the Senate and Assembly Authorized by Concurrent Resolution of the Senate and Assembly of May 2, 1913, to Examine into the Methods of Financial Administration and Conduct of all Institutions, Societies or Associations of the State which are Supported Either Wholly or in Part by State Moneys, etc., and Under Concurrent Resolution of the Senate and Assembly, dated June 26, 1913.

THE CAPITOL, ALBANY, N. Y., *June* 25, 1913.

Committee:

Hon. JAMES J. FRAWLEY, *Chairman,*
Hon. FELIX J. SANNER,
Hon. SAMUEL J. RAMSPERGER,
Senators,

Hon. LAVERNE P. BUTTS,
Hon. WILSON R. YARD,
Hon. MYRON SMITH,
Assemblymen.

This committee was created pursuant to the provisions of the following resolutions, dated May 2, 1913, and June 26, 1913:

Resolved (if the Assembly concur), That a joint committee of the Assembly and the Senate be appointed, of which the chairman of the Senate Finance Committee shall be the chairman, consisting of three members of the Senate other than the said chairman, to be appointed by the President of the Senate, and three Members of the Assembly to be appointed by the Speaker of the Assembly, to examine into the methods of financial administration and conduct of all institutions, societies or associations of the State which are supported either wholly or in part by State moneys, or which report officially to the State, into the functions of any or all State departments concerned in the management, supervision or

regulation of any such institution, the methods of making purchases, fixing salaries, awarding contracts for supplies, buildings, repairs and improvements, the sale of manufactured articles and the conduct generally of the business of all such institutions and departments for the purpose of reporting to the next session of the Legislature such laws relating thereto as the committee may deem proper.

Resolved, That said committee is authorized to sit after the adjournment of the Legislature in and outside the city of Albany, and is hereby authorized and empowered to subpœna and force the attendance of witnesses, including public officers and public employees, and to require the production of books and papers, including any public record or document pertaining to the administration of any State institution or of any State department concerned in the management, regulation, visitation or supervision of the same, to administer oaths, to employ a secretary, counsel and a stenographer, an expert accountant and such other employees as may be necessary for the purpose of the investigation, and the actual and necessary expenses of the committee in carrying out the provisions of this resolution shall be paid from the funds appropriated for the contingent expenses of the Legislature by the Treasurer on the warrant of the Comptroller upon the certificate of the committee.

Pursuant to the above resolution the President of the Senate appointed the following members of the committee:

Senator Felix J. Sanner and Senator Samuel J. Ramsperger.

Pursuant to the above resolution the Speaker of the Assembly appointed the following members of the committee:

Assemblyman LaVerne P. Butts, Assemblyman Wilson R. Yard, and Assemblyman Myron Smith.

On June 25, 1913, the Senate and Assembly passed the following concurrent resolution:

Whereas, It has been alleged in the press of the State that unlawful or improper methods have been used or pursued by private persons or public officers and wrongful or unlawful acts done to influence the votes of legislators on election or primary legislation, and

Whereas, There has been submitted to the present extraordinary session of the Legislature of the State of New York a proposed act providing, among other things, for the punishment of any person who, while a candidate for an elective office to be voted for by the electors of the whole State shall fail to make true returns of moneys

or things of value, directly or indirectly received or expended in aid of such candidacy, or who shall receive or expend more than a certain sum stated in said act. Now, therefore, be it

Resolved (if the Assembly concur), That for the information of the Legislature the whole subject of any unlawful or improper methods, or wrongful or unlawful acts aforesaid, and of receipts and expenditures of candidates for an elective office to be filled by the votes of the electors of the whole State be referred to a certain joint legislative committee of the Senate and Assembly to examine into the methods of financial administration and the conduct of all institutions, societies or associations of the State, etc., heretofore appointed under joint resolution dated the 2d day of May, 1913, to ascertain and report to the Legislature at this extraordinary session, or, if not ready, as soon thereafter as possible, whether any unlawful or improper methods have been employed, used or pursued, or wrongful or unlawful acts done by any private person or public officer to influence the votes of legislators on election or primary legislation at the last regular or the present extraordinary session of the Legislature. And further to investigate into, ascertain and report upon all expenditures made by any candidate voted for at the last preceding election by the electors of the whole State, and upon all statements filed by or on behalf of any such candidate for money or things of value received or paid out in aid of his election and their compliance with the present requirements of law relating thereto.

Said committee to have the power to subpœna witnesses on these subjects, the same as provided in the resolution of May 2d above referred to.

On March 25th, 1913, pursuant to the foregoing resolutions, the Committee met for organization and appointed the following:

Eugene Lamb Richards, Esq., Counsel to the Committee,

Matthew T. Horgan, Esq., Secretary to the Committee,

Municipal Reporting Company, official stenographers to the Committee.

The committee adjourned to July 3, 1913, at 10:30 o'clock, A. M.

THE CAPITOL, ALBANY, N. Y.,

JULY 3, 1913, 10:30 O'CLOCK, A. M.

Pursuant to adjournment, the Commission met at 10:30 o'clock A. M.

Present:

Senator James J. Frawley, Chairman,
Senator Felix J. Sanner,
Senator Samuel J. Ramsperger,
Assemblyman La Verne P. Butts,
Assemblyman Wilson R. Yard,
Assemblyman Myron Smith.

Appearances:

Eugene Lamb Richards, Esq., counsel to the committee,

Matthew T. Horgan, Esq., secretary to the committee.

The Chairman.— The committee will come to order.

Mr. Richards.— I will call the president of the Albany Trust Company.

Charles H. Bissikummer, a witness called by the Committee, having been first duly sworn by the Chairman of the Committee, testified as follows:

Examination by Mr. Richards:

Q. What is your full name? A. Charles H. Bissikummer.

Q. Mr. Bissikummer, you are the president of the Albany Trust Company, of this city? A. Yes, sir.

Q. And you have been served with a subpoena to produce a certain transcript of the account in your company of George W. Blake, as special commissioner? A. Yes, sir, I have.

Q. Also canceled checks and so forth? A. Yes, sir.

Q. Have you done that? A. Yes, sir.

Q. Will you please produce the papers? A. (Witness produces same.)

Q. The first paper which you produce is transcript of the account of Mr. Blake? A. It is.

Q. Down to date? A. Yes.

Mr. Richards.— I ask to have that marked in evidence.

The paper referred to was received in evidence and marked Exhibit No. 1, of this date.

Q. And this other package which I hold in my hand contains the canceled checks on that account? A. Yes.

Q. Has that account ever been balanced? A. Well, I don't quite understand what you mean by "balanced."

Q. Well, has the bank book of Mr. Blake ever been balanced at the bank? A. I think not. I would like to correct that, excepting by statement rendered.

Q. Yes. A. Rather than the book.

Q. And these are all the checks, are they, that have been drawn on that account? A. Up to date.

Q. Yes, up to date? A. Yes.

Mr. Richards.— I offer these in evidence.

Package of checks referred to received in evidence and marked Exhibit No. 2, of this date.

Q. I ask you to look at Exhibit 1 and tell us, so that that matter may be clearly on the record, what were the total deposits in that account? A. From March 22, 1913, to June 21, 1913, inclusive, $9,400.

Q. And how much has been drawn out of that account? A. $7,966.77.

Q. What is the balance? A. $1,433.23.

Q. I ask you to look at Exhibit 1 and look at the last check on that list, No. 201. That is out of the order of the numbers, is it not? A. It is, yes.

Q. To whose order is that check — what is the amount of that check and to whose order is it? A. $500 to the order of bearer.

Q. I ask you to look at a certain check dated May 1, and ask you if that is the check which corresponds to that amount? A. (Witness examines same.) It is.

Q. Whose endorsement is on the back of it? A. George W. Blake, commissioner.

Q. Was that paid in cash over the counter? A. It was.

Mr. Richards.— That is all, Mr. Bissikummer.

Is Mr. Platt in the room; Mr. Chester C. Platt?

(No response.)

Mr. Richards.— Is the subpœna server who served Mr. Platt here?

Mr. Phillips.— Yes, sir; I am here.

Mr. Richards.— I ask the chairman to send word to Mr. Platt that the committee is waiting for him.

The Chairman.— Mr. Phillips, will you step down and tell Mr. Platt? Have you any other witness while you are waiting for Mr. Platt?

Mr. Richards.— I will ask the Attorney-General's representative to please take the stand.

Arthur J. Smith, a witness called by the committee, having been first duly sworn by the chairman of the committee, testified as follows:

Examination by Mr. Richards:

Q. Give your name to the stenographer? A. Arthur J. Smith.

Q. Mr. Smith, you are employed by the Attorney-General? A. Yes, sir.

Q. Of the State of New York? A. Yes, sir.

Q. You have been served with a subpœna to produce a certain letter from the Comptroller to the Attorney-General, under date, I think, of April 21st? A. Yes, sir.

Q. And also a copy of a letter enclosed? A. Yes, sir.

Q. Have you done that? A. Yes, sir.

Q. Will you kindly produce those papers? A. (Witness produces papers.)

Q. This also includes a copy of a letter written by the Attorney-General to the Comptroller, giving an opinion, does it not? A. Yes, sir.

Q. Those papers have remained in your files since the time when they were received? A. Yes, sir.

Q. They have? A. Yes, sir.

Mr. Richards.—That is all, thank you. I ask to have this marked for identification only.

The letter referred to was marked Exhibit 3 for identification, of this date, and reads as follows:

"STATE OF NEW YORK,

COMPTROLLER'S OFFICE,

ALBANY, *April* 23, 1913.

Hon. THOMAS F. CARMODY, *Attorney-General, Albany, N. Y.*

DEAR SIR.— Governor Sulzer has designated Mr. George W. Blake as a special commissioner, a copy of his letter notifying this office to that effect is sent herewith.

Under this designation Mr. Blake has presented a claim which contains these two items:

April 5th, expenses March 31 to April 5, inclusive, $150.

Note: Expenses at the rate of $25 per day from March 31st, inclusive, to April 5th, inclusive, 6 days.

March 29th, expenses March 14 to 30, inclusive, at the rate of $25 per day, $425.

We would like to pay these two items, but section 12 of the Finance Law says:

The comptroller shall not draw his warrant for the payment of any sum appropriated * * * until the person demanding the same presents to him a detailed statement thereof in items and makes all reports required of him by law.

Finance Law, section 12, also states: If for traveling expenses, the distance traveled, between what places, the duty or business for the performance of which the expenses were incurred and the dates and items of each expenditure.

In the opinion of this office these provisions of the law absolutely bar us from paying this claim in its present form.

In order to facilitate the Governor's work, however, we submit the facts to you with the inquiry, Is there any construction of the law which will permit the Comptroller to pay these two claims in their present form legally?

Respectfully yours,

WM. SOHMER,
Comptroller.

By M. J. WALSH,
Deputy Comptroller."

ESH.M

The Chairman.— Are you through with Mr. Smith?

Mr. Richards.— Yes.

The Chairman.— Mr. Platt is here now.

Chester C. Platt, a witness called by the Committee, having been first duly sworn by the Chairman of the Committee, testified as follows:

Examination by the Chairman:

Q. Give your full name, Mr. Platt, to the stenographer? A. Chester C. Platt.

By Mr. Richards:

Q. Mr. Platt, you are the secretary to the Governor of the State of New York, are you not? A. Yes.

Q. Were you served with a subpœna directed to the Governor on the 1st of July to produce all the reports and testimony filed by George W. Blake as special commissioner for the investigation of prisons? A. Why, I was not served with a subpœna; there was one given me for the Governor.

Q. Well, you were served with a paper, were you not? A. Yes.

Q. And the Governor had then gone? A. Yes.

Q. Have you made search for those records? A. No.

Q. Have you caused any search to be made for them? A. No.

Q. You paid no attention to that subpœna? A. Why, I received it.

Q. The only attention that you paid to it then was to receive it. Did you ask anybody to make a search for those papers? A. I have made some inquiry about some of the papers mentioned there in connection with a conversation with Mr. Taylor and Mr. Merlin, but I have not made any thorough search to find all the papers enumerated there.

Q. Have you made a search to find any of them? A. Why I did not search to find them, but some of those reports were produced by Mr. Merlin.

Q. Are they here? A. They are down in the executive office.

Q. Why haven't you produced them? A. Well, I understand that I am entitled to five days' notice in a subpœna of this kind for one reason; for the second reason that there was no demand made on me to produce those papers.

Q. Well, do you want to stand on that proposition that you don't want to produce them except on five days' notice? A. Yes, sir.

Q. And your position is that you won't produce them, is that it? A. Except in accordance with law.

Q. And you understand the law to be that you are to have five days' notice, do you? A. If I were commanded to produce them I understand that I would have five days' notice, and as the Governor was commanded to produce them I supposed he was entitled to five days' notice.

Mr. Richards.— Mr. Chairman, I ask you to direct the witness to produce the papers in question.

The Chairman.— Mr. Platt, in behalf of the Legislature of the State of New York, I ask you to produce those papers immediately. Will you, or will you not?

The Witness.— I will not.

Mr. Richards.— I ask to have that noted upon the record, the witness' refusal.

The Chairman. The stenographer will so take notice.

Q. You say that some of the papers were found. What papers were found? A. Why I think there were found three of the original reports of Mr. Blake.

Q. And what other ones were not found? A. Well, I guess — I think there are about four other reports of Mr. Blake's that were not found.

Q. And where did you search for those? A. Why, I think that in conversation with Mr. Taylor and Mr. Merlin the question arose whether or not we had those originals and Mr. Merlin went and got them and brought them to us; I guess I asked him for them.

Q. As to the others, what was the report on those other papers? A. That were missing?

Q. Yes. A. There was no report, except —

Q. To you, what was the result? A. There was no report to me except that Mr. Merlin said that was all there was on file; these were found in a certain envelope.

Q. To what institutions did the ones relate that were found? A. Well, I don't remember as to that.

Q. You have got those up in your office? A. Yes, sir.

Q. Is it a fact that some of these reports were locked up in the Governor's private office? A. I cannot tell what is locked up in his office; I do not know what are locked up in his office.

Q. Well, was it reported to you that some of these reports were

locked up in his private office? A. None of these reports that were produced by Mr. Merlin came —

Q. Naturally, but the others that you did not find, was it reported to you that they were locked up in the Governor's private office? A. No, no one told me that.

Q. You did not hear anything of that kind? A. No one told me that.

Q. Mr. Taylor didn't tell you that, did he? A. No.

Mr. Richards.— Mr. Taylor, will you take the stand?

The Chairman.— Just before you leave off with Mr. Platt, so that the committee will be clear. I command you, as a representative of this committee and as a representative of the Legislature of the State of New York, I command you to produce forthwith the papers that you have found. Will you or will you not?

The Witness.— I decline to do that on the ground that I am entitled to five days' notice.

The Chairman.—We don't want to know about that. I want to ask you, will you or will you not produce them?

The Witness.— I want to show proper respect to the committee and give some reason.

The Chairman.— Certainly.

The Witness.— I also give the reason that I am a subordinate and I don't think I have the right to extract papers from the executive office without the order of my superior. I like in respect to the court to give my two reasons.

The Chairman.— Let me ask you whether you say the subpœna was served on you, what date is that, or on the Governor?

The Witness.— The night before last.

The Chairman.—What date was that, please?

The Witness.— That was the first of July.

The Chairman.—Was it Tuesday it was served on you?

The Witness.— I think so.

The Chairman.— Do you remember the exact date it was served?

The Witness.—Yes, I think it was Tuesday, July first; that was Tuesday.

The Chairman.— Do you recall whether the Governor was in Albany at the time when that service was made?

The Witness.— No, he was not.

The Chairman.— He was not, and you accepted service for the Governor?

The Witness.— No, I did not. I signed no acceptance of service.

The Chairman.—We don't care anything about that, signing any acceptance.

The Witness— This paper was handed to me and I responded to the young man who served it, "The Governor is not here and I don't know just when he will return;" I think I said something like that to him.

The Chairman.—You still stand on your right that any papers which you now have in your physical possession you will refuse to turn over to this court unless you have had five days' notice, is that your attitude?

The Witness.— Yes, sir, and also from instructions from the man who has the custody of those papers.

The Chairman.— That is all.

Mr. Richards.— May I ask one or two questions, Mr. Chairman?

The Chairman.— Certainly.

By Mr. Richards:

Q. Who is the man who has the custody of these papers? A. I think the Governor does; it is customary in my opinion.

Q. Are these papers filed there as public records? A. Well, that is really calling for a legal opinion that I don't feel competent to give.

Q. You published copies of this, didn't you, yourself and direct that they be given to the newspapers? I show you a paper and ask you whether or not you did not authorize the statement at the top of that paper? (Handing paper to witness.) A. These —

Q. (Interrupting) Well, you gave them to the public, didn't you? A. Why I suppose I did; they were —

Q. (Interrupting) Then, is there any doubt in your mind that they are a public record and were made a public record, if they were not before, by your statement to the press? A. Yes, I have doubt about that.

Q. You still have doubt about that? A. Yes.

Q. You admit however that this statement at the top of the paper that I show you, "To be released for morning papers Sunday, May 11, 1913, not to be previously published or quoted from in any way. Chester C. Platt, Secretary to the governor," was put there by your authority? A. Well, it is a formal matter.

Q. Was it put there by your authority, yes, or no? A. I suppose it was.

Q. Yes or no, Mr. Platt. Was it or was it not? A. The reason I am hesitating is because so many such things go out that I don't give particular attention to and others use my name in connection with things.

Q. I am not asking you for your personal action, but I am asking whether it was given out by your authority? A. I suppose it was.

Q. Is that the best answer you can give? A. (No answer.)

By the Chairman:

Q. Will you kindly answer yes or no? A. I was only trying to clarify that answer to make it more truthful and to indicate that so many things were given out to the newspapers that I never saw, with that notice at the top, that I am not aware I had ever seen this before when it was published, so I really actively took no part in connection with it, although my name was used there, and I suppose I am officially responsible for its being given out.

Q. Then, we understand that most of the documents with your name signed to them — that somebody else is responsible for? A. Yes, someone else is responsible for the preparation of the printed matter.

Q. Then it is customary for anybody, any clerk in the office, to draw a document and then you will permit your name to be used? A. No; those things are generally prepared under the direction of the governor.

Q. Very well. A. Things that are given out that are prepared under the direction of the governor or possibly some things may have been given out by Mr. Taylor, or by Mr. Potter in connection with matters over my signature in a similar way.

Q. Who in particular, of those men you have mentioned, Mr. Platt, is responsible for the issue of this document which made public the report of Mr. Blake? A. The governor gave directions for that printing.

By Mr. Richards:

Q. I will ask you one more question in regard to a particular paper which was called for by that subpoena that was served on you on July 1st, namely this: an original letter of March 14, 1913, addressed to Hon. William Sohmer, comptroller, in regard to the said George W. Blake. Did you look for that letter. A. No.

Q. Make any search for it at all? A. No.

Q. Then that part of the subpoena you did not pay any attention to at all? A. I did not make any search for that letter.

The Chairman.— Before we proceed any further with Mr. Platt, Mr. Richards, I would ask that you send up and get a copy of both resolutions of the Senate and Assembly immediately. We will try and find out if Mr. Platt will answer or obey the subpoena.

Mr. Richards.— Well, we will suspend with this witness.

The Chairman.— Yes, just temporarily, Mr. Platt.

Mr. Richards.— Mr. Taylor, will you take the stand, please?

The Chairman.— Please do not leave the room, Mr. Platt.

Valentine Taylor, a witness called by the Committee, having been first duly sworn by the Chairman of the Committee, testified as follows:

Examination by Mr. Richards:

Q. Mr. Taylor, you are the counsel to the Governor? A. Yes, sir.

Q. Did you take part in this search for some of these papers? A. I did not.

Q. That were called for by this subpœna? A. I did not.

Q. Did you have anything to do with supervising it? A. I did not.

Q. Did you have any reports made to you with regard to it? A. No, sir.

Q. Didn't you telephone me that the papers that we were looking for were in the private office of the Governor and they could not be obtained unless you used a jimmy? A. I said I believed some of the papers —

Q. (Interrupting.) No, Mr. Taylor, didn't you use that exact language to me? A. I did not.

Q. Well, what did you say to me? A. I said I believed that some of the papers called for were in the Governor's private room, which was locked; the Governor being out of town, I requested the courtesy of the committee that they be not produced this morning but delayed until the Governor returned, which I understood to be on the 5th, and that in order to obtain the papers, not having access to his private room, the only way to do or get in was to break in. I did not suppose you would want to use a jimmy on the Governor's private room in order to get the papers this morning.

Q. I did not make it as long as you put it, but that was substantially your statement to me? A. You can make your own inferences.

Q. As a matter of fact, from Mr. Platt's statement, some of these papers were found? A. I heard him state so.

Q. That is all you know about it? A. Yes, sir.

Mr. Richards.— That is all, Mr. Taylor. Mr. Wood, will you take the stand, please?

John B. Wood, a witness called by the committee, having been first duly sworn by the chairman of the committee, testified as follows:

Examination by Mr. Richards:

Q. Mr. Wood, you are employed in the office of Hon. William Sohmer, the Comptroller of the State of New York? A. I am.

Q. In what capacity? A. Voucher clerk.

Q. Voucher clerk? A. Yes, sir.

Q. And pursuant to subpœna have you produced all vouchers and papers relating to the accounts or proceedings, designation or any other matters of George W. Blake as special commissioner? A. All on file in our office, yes, sir.

Q. Have you those with you? A. I have.

Q. In addition to that, have you produced a certain original contract between a man by the name of Pasquini and the superintendent of prisons? A. I have.

Q. Have you got those papers there? A. I have.

Q. Please let me have them? A. (Witness produces same.)

Q. Among the papers that you produce is a commission signed by William Sulzer and countersigned by Chester C. Platt, secre-

tary to the Governor, appointing George W. Blake to a certain office. Is that produced from the records of your office? A. It is.

Q. And was filed with them? A. It is.

Mr. Richards.— I ask to have that marked in evidence.

The paper was received in evidence and marked Exhibit No. 4, of this date, which exhibit reads as follows:

"STATE OF NEW YORK,

EXECUTIVE CHAMBER.

To all to whom these presents shall come, greeting:

Know ye, that pursuant to section 8 of the Executive Law I have appointed, and by these presents do appoint, George W. Blake, of the Borough of Manhattan, New York City, as a special commissioner to serve without compensation, to examine and investigate the management and affairs of all the State prisons and reformatories in the State of New York, including the office of the Superintendent of State Prisons.

The said George W. Blake is hereby empowered to subpœna and enforce the attendance of witnesses to administer oaths and examine witnesses under oath and to require the production of any books or papers deemed relevant or material.

And I hereby give and grant unto said George W. Blake all and singular the powers and authorities which may be given or granted unto a person appointed by me for such purpose under authority of the statute aforesaid.

In witness whereof, I have subscribed my name to these presents and caused the privy seal of the State to be affixed hereto at the Capitol, in the city of Albany, this 14th day of March, in the year of our Lord one thousand nine hundred and thirteen.

WILLIAM SULZER.

(Seal.)

By the Governor:

CHESTER C. PLATT,

Secretary to the Governor."

Q. I ask you to look at a certain paper which I show you in a bundle, the first paper of which is signed by William Sulzer and by George W. Blake, commissioner, and ask your particular atten-

tion to an item at the bottom of the page which I show you and ask you to read that? A. May 3rd, for reimbursement in connection with work done as special prison investigator except car fare, April 20 to May 3, inclusive, 14 days, at $25 per day, $350.

Q. That was allowed by the Comptroller, was it? A. It was.

Q. But this commission of Mr. Blake's had provided that he should serve without compensation, didn't it? A. Yes.

Q. Did it not? A. It did.

Q. Mr. Wood, I ask you to look at that item again and tell me whether or not there has not been an item erased on that paper and a new typewriting done over it? A. There has been a change into it and I think it was to cover an error in the days.

Q. Wasn't the item that was there, George W. Blake, 14 days at a salary of $25 per day? A. Well, I don't remember now.

Q. You don't remember? A. No.

Q. Do you think that that was changed for the purpose of changing the date? A. I would not swear to that positively; there were some of them, the dates were wrong and we had them corrected after they were filed in the office. Some of the wording was changed, as it did not meet with the approval of the Comptroller on account of the opinion of the Attorney-General; the commission of Mr. Blake on file in our office was conflicting.

Q. Now, then, you know really what happened in this case, don't you, Mr. Wood? A. I could not tell in this particular case, no.

Q. But you know what did happen in this particular case with regard to this change in the payment of this money? A. In what way?

Q. With regard to the change in the arrangement by the Governor? A. I know there was a change made, yes.

Q. I ask you whether or not at the time on April 23, 1913, when the letter of Comptroller Walsh was written to the Attorney-General, whether there was not on file then the only order of the Governor annexed to that dated March 14th which provided for his being paid without compensation —

The Chairman.— Employed without compensation.

Q. Employed without compensation? A. I could not tell without going through the files and comparing the dates.

Q. Look at the paper annexed to it. A. What is the question, please?

The Chairman.— The stenographer will read the question.

The question was read by the stenographer as follows: "Q. I ask you whether or not at the time on April 23, 1913, when the letter of Comptroller Walsh was written to the Attorney-General, whether there was not on file then the only order of the Governor annexed to that dated March fourteenth, which provided for his being employed without compensation?" A. That was all.

Q. That was the only one on file then, you are sure of that, are you? A. As far as I know.

Q. That is simply your understanding of it? A. Yes.

Mr. Richards.— I offer in evidence a copy of a letter from Governor Sulzer to Hon. William Sohmer dated March 14, 1913, and annexed to a letter from the Comptroller to the Attorney-General, dated April 23, 1913, and ask to have that marked.

Letter referred to received in evidence and marked Exhibit No. 5, of this date, which exhibit reads as follows:

"STATE OF NEW YORK,

EXECUTIVE CHAMBER,

ALBANY, March 14, 1913.

Hon. WILLIAM SOHMER, *Comptroller:*

DEAR SIR: I have this day appointed George W. Blake, of the borough of Manhattan, New York City, as a special commissioner, to serve without compensation, to examine and investigate the management and affairs of all the state prisons and reformatories in the state of New York, including the office of the superintendent of state prisons.

I hereby authorize you to pay Mr. Blake $25 a day for his expenses.

Very truly yours,

WM. SULZER."

The letter annexed to the above exhibit is as follows:

"April 24, 1913.

Hon. WILLIAM SOHMER, *Comptroller, Albany, N. Y.*

DEAR SIR: I am in receipt of your favor of the 23rd instant. You call my attention to a claim for expenses made by Mr. George W. Blake in the following form:

April 5. Expenses March 31 to April 5 inclusive, $150.

Note: Expenses at rate of $25 per day from March 31st inclusive to April 5th inclusive, six days.

March 29. Expenses March 14 to 30, inclusive, at the rate of $25 per day, $425.

Section 12 of the state finance law, as you very well observe, prohibits the comptroller from drawing his warrant for the payment of sums appropriated out of the state treasury except for salaries and other expenditures and appropriations, the amounts of which are duly established and fixed by law unless certain formalities in the section demanded are complied with.

Among other requirements is the following: If for traveling expenses, the distance traveled, between what places, the duty or business for the performance of which the expenses were incurred and the dates and items of each expenditure.

The claim submitted in the form which you present clearly does not comply with this provision of law and in my opinion it should be properly itemized as required by statute, before it can be allowed as an expense account.

Yours very truly,

ATTORNEY-GENERAL."

JAK–T

Q. On that letter of March 14, 1913, from Governor Sulzer to William Sohmer, comptroller, the comptroller refused to pay Mr. Blake $25 a day unless he could itemize his expenses? A. He did.

Q. And then what happened was — now, see if I am not right — Mr. Blake went to the comptroller's office, got this original letter of March 14, 1913, off the files and got a new letter dated March 14, 1913, signed by the governor, and went down to the comptroller so that he could draw $25 a day and his expenses; isn't that the fact? A. That is the fact.

By the Chairman:

Q. That is the fact? A. That is the fact.

By Mr. Richards:

Q. And did Mr. Blake ever return that original letter dated March 14, 1913, that he took away? A. Not to my knowledge.

Q. Did you ever see it again? A. No, sir.

Q. Then he brought back a certain letter or communication in place of the one that he took away, which I show you, did he not? A. Yes, sir.

Mr. Richards.— Mark that in evidence.

The letter referred to was received in evidence and marked Exhibit No. 6, of this date, which exhibit reads as follows:

STATE OF NEW YORK,

EXECUTIVE CHAMBER,

ALBANY, *March* 14, 1913.

Hon. WILLIAM SOHMER, *Comptroller.*

DEAR SIR.— You are hereby authorized to pay Mr. George W. Blake $25 a day and his transportation expenses under Chapter 2 of the Laws of 1913, such payment to be in lieu of all claims for reimbursement of Mr. Blake as Special Commissioner to examine and investigate the State prisons in the State of New York, including the office of the Superintendent of State Prisons.

Yours very truly,

WM. SULZER.

Entered."

Mr. Richards.— That letter is dated the same as the original letter which had been taken away. I will state to the Committee that was "entered," the receipt of that letter dated March 14th, the one that was brought back; and for the purpose of showing the method of the Comptroller in stamping receipts I will ask the witness to look at a paper and say whether that is not in the usual form to show when a paper is received in that office?

The Witness.— When received by mail, yes; when delivered in person or by messenger, no, unless a legal document.

Q. Well, a legal document, Mr. Wood; just for our information. This letter from the Governor was authority for the payment of the moneys of the State, was it not? A. It was.

Q. And wasn't it authority for your official action? A. It was.

Q. Now, wouldn't it be the custom of your department to enter the receipt of such a paper as that? A. If it came through the regular mail, yes. If it was delivered by a messenger, not unless it was a legal document.

Q. Then you mean by a legal document a court order? A. A court order or something of that kind, for the purpose of getting the exact time.

Q. You make a distinction between a document of one of the State departments and a letter? A. A letter.

Q. About what date or after what date did you receive the letter of March 14, 1913, the new letter, Exhibit 6? If you cannot give the exact date, tell us the latest date that it was received or the earliest date that it was received? A. May I look at one of those bundles of vouchers? (Witness examines same.)

Q. We will give you the bundle and then you can tell us. A. I should say it was some time in the fore part of April.

Q. It was after the 23d of April, because at that time you had the original in the office and sent a copy to the Comptroller? A. About the 30th of April.

Q. About the 30th of April? A. That thing was closed up and entered on the books on April 30th.

Q. Then it was probably about April 30th that this letter antedated by the Governor March 14th was received by the Comptroller? A. I should think so.

Q. And on the basis of that, Mr. Blake was allowed this $25 a day dating back to the 14th day of March, 1913, was he? A. He was.

By the Chairman:

Q. That was done on the letter of the Governor, was it? A. On the letter of the Governor.

Q. I show you a document and ask you whether your office did not furnish that to me or to Mr. Horgan? A. It looks very much like our record, but I could not swear who furnished it, not getting it up myself.

Q. You think it came from your office, don't you? A. Yes, sir.

Q. Will you tell us how it was that there was on this statement, purporting to be a copy of a voucher, "George W. Blake, 14 days salary, at $25 per day, $350, and reimbursement of expenses, including railroad fare and reimbursement of disbursements, $391.37, making a total to Mr. Blake of $741.37 on May 3d? A. I could not tell unless I had the voucher before me to make the comparison.

Q. Well, now, to get back to these vouchers. Mr. Blake accounted three times to the Comptroller's office for the moneys that he had received and deposited to his account? A. Twice, I think.

Q. Just look and see. (Handing papers to witness.) A. (After examining.) I think there are two credits; this is the first one.

Mr. Horgan.— Three of them; March 31st, April 5th and May 3d.

The Witness.— This covers two credits, credited the same day, but covers two separate bunches of accounts; if you will notice there is another schedule here for $737.08.

Q. I want to have you put upon the record the dates when Mr. Blake accounted, the amount that he accounted for and the last date of any accounting or any voucher filed with the Comptroller by him. A. That is the date that we credited it; that is the date which will usually govern because it will come in one day and it may be three weeks before the matter is checked out, owing to errors in the account.

Q. No, the date when he accounted. I am interested in his accounting? A. Here is one dated March 31st, but not credited to his account until April 30th.

Q. He accounted first on March 31st, having taken office on March 14th. A. Yes.

Q. What was the amount of that? A. That first one, $1,330.01.

Q. The next account? A. Delivered at the office April 5th, or thereabouts.

Q. And how much did he account for then? A. $737.08; credited April 30th.

Q. Now, then, the next accounting? A. Transmitted to the office about May 3d.

Q. May 3d, and how much then? A. $2,746.17.

Q. The total of those was $4,813.26, was it not? A. Well, I am not a lightning calculator; I haven't footed it up.

Q. Well, it is. We will put that on the record; and Mr. Blake has altogether received $9,400? A. About that.

Q. Since May 3d, two months ago, has he made any accounting or filed any vouchers with the Comptroller? A. Not to my knowledge.

Q. Well, you have searched under this subpœna, have you not? A. I have.

Q. He has not filed anything as far as you can find? A. No, sir.

Q. Then, as far as the vouchers in the Comptroller's office are concerned, Mr. Blake has still on his books unaccounted for $4,586.74; see if that is not right? A. That is right.

Q. Mr. Blake has got another position now, hasn't he? A. Yes.

Q. As shown by the records of the Comptroller's office? A. I believe there is a notice in the office to that effect.

Q. I ask you to look at a paper dated June 5, 1913, and state whether or not you produced that from the Comptroller's office? A. I did.

Mr. Richards.— I offer that in evidence.

The paper referred to was received in evidence and marked Exhibit No. 7, of this date. which exhibit reads as follows:

"STATE OF NEW YORK — PRISON DEPARTMENT.

"ALBANY, *June* 5, 1913.

"Hon. WILLIAM SOHMER, *State Comptroller, Albany, N. Y.:*

"Dear Sir: I have today appointed George W. Blake to the position of clerk of the superintendent of state prisons; salary $4000 per annum; this appointment to take effect immediately.

"Respectfully yours,

"JOHN B. RILEY,

"*Superintendent.*"

CKB-L.

(Received June 7, 1913
Comptroller's office
State of New York)
Entered

Q. Under that, Mr. Blake has been drawing a salary from your office, has he not, or through your office? A. I could not answer that, not handling the salary warrants; no.

Mr. Richards.— That is all. I recall Mr. Platt.

Chester C. Platt, recalled.

Examination by Mr. Richards:

Q. Now, Mr. Platt, referring to the subpoena issued to the Governor which you say was served on you July 1st and which called for the production of an original letter of March 14, 1913, addressed to Hon. Wm. Sohmer, Comptroller, in regard to George W. Blake, I ask you now whether you will produce that letter to-day or try to produce it? A. I will say that I respectfully decline, because I don't think you have authority to require that.

The Chairman.— That is all.

Q. Any other ground that you want to state? A. I think that it has been established as a precedent that a legislative committee has no right to demand of the Governor papers from the Executive Chamber; I have been so advised by counsel.

Mr. Richards.— All right, sir.

By the Chairman:

Q. For those reasons you refuse to furnish any public documents in your possession or the possession of the Governor, is that your attitude? A. Yes, sir.

The Chairman.— Well, Mr. Richards —

Mr. Valentine Taylor.—(Interrupting) May I ask one question?

The Chairman.— Yes, sir.

Mr. Taylor.— I want to ask if that letter is in your possession, Mr. Platt?

The Witness.— No, sir.

The Chairman.— Mr. Richards, I would like to ask you to now prepare a complaint to the Legislature, which will meet on next Tuesday, and then find out what method we have of punishment, if there is any, to apply to Mr. Platt.

Mr. Richards.— Certainly, sir.

The Chairman.— That is all, Mr. Platt.

Mr. Taylor.— I trust the Committee understands that in respect to that particular letter it is not in his possession or physical control, and it is impossible for Mr. Platt to produce it.

The Chairman.— Well, Mr. Taylor, whether or not the attitude of Mr. Platt is such, he desires to hide from this Committee some letter, and he has denied this Committee, if he had it in his possession, any letter or any papers, pertaining to this investigation, and if that is his attitude, it is the duty of this Committee, which has been appointed by the joint legislative assemblies, to report to those bodies and ask what power they have to punish a witness; there is no desire on the part of this Committee, except to only ask questions with regard to this report; these reports have been made already to the Legislature with the findings of

Mr. Blake and when the Governor or his secretary — I won't say the Governor but his secretary — refuses a Legislative Committee point blank and he has answered that they are not authorized or have no power, I think it is the duty then of this Committee to prepare the proper papers and present them to the special session of the Legislature and find out if there is not some method by which Mr. Platt can be punished; and I instruct the attorney of this Committee to draw such papers.

Mr. Richards.— Certainly, sir.

The Chairman.— Next witness, Mr. Richards.

Mr. Richards.— George W. Blake.

George W. Blake, called by the Committee as a witness, having been first duly sworn, testified as follows:

Examination by Mr. Richards:

Q. Mr. Blake, you are the special commissioner appointed under a designation which is marked as Exhibit 4, are you not? (Counsel passes paper to witness). A. (After examining) Yes, I am.

Q. That designation was to you as special commissioner to serve without compensation to examine and investigate the management and affairs of all the State prisons and reformatories of the State of New York, including the office of the Superintendent of State Prisons? A. Yes, sir.

Q. Before you were appointed, Mr. Blake, had you had any experience in connection with the construction, maintenance or conduct of any prison or reformatory? A. No, sir; except the incidental work that might come to me as a reporter.

Q. You had been at one time a reporter attached or assigned to the Criminal Court Building in the City of New York, had you not? A. At one time, yes.

Q. How long did that assignment last? A. I don't think it is so long ago.

Q. A year ago? A. Oh, yes, I should think so.

Q. And with that exception you have no experience or peculiar qualifications, so far as you know, through experience in the matter of prisons or reformatories? A. Oh, yes; I have been to the prisons many times.

Q. You have been to prisons. What prison had you been to

before you took this commission? A. I was at Auburn and at Sing Sing; I think that is all that I can recall.

Q. In what capacity? A. On stories for the newspaper.

Q. Interviewing a prisoner or interviewing the warden? A. Investigating stories, yes.

Q. That is, to look up a story of some man who was in the prison? A. Yes.

Q. You had known Governor Sulzer some time before this appointment, had you not? A. A long time.

Q. He is an old friend of yours? A. Yes.

Q. And you had done some work for him before he was nominated and elected as Governor? A. Yes, sir; I had done so.

Q. You had helped him in his past campaign? A. No, I was otherwise busy in the past campaign.

Q. No, I don't mean in the way of making speeches, but didn't you get up a little pamphlet of Governor Sulzer's speeches? A. Oh, that was some time before.

Q. That was some time ago? A. Oh, yes; that was before he was nominated.

Q. At various times you have taken a friendly interest in Governor Sulzer's public career and his candidacies? A. Yes, sir.

Q. And when were you first approached for the purpose of being — to take this appointment; about what time in a general way? A. Oh, about the 12th; I think it was the 12th of March; I don't remember the the precise date; I got a telegram from Mr. Hennessy asking me to come to Albany at once, that the Governor wanted to see me.

Q. You had not seen the Governor for some time before that? A. Some weeks.

Q. Some weeks. And on Mr. Hennessy's telegram you came up and saw the Governor and the Governor told you that he wanted to appoint you to this position? A. In substance, yes, sir.

Q. Now, did you have any particular instructions with regard to your investigation from the Governor? A. No, sir.

Q. Did he discuss that, what you were to look for? A. No, not a word.

Q. He never said a word to you as to what he wanted to have you do? A. Except to investigate the prisons and tell the truth as to their conditions, that is all.

Q. That is all he said? A. Yes, sir; that is all he said.

Q. How long of an interview did you have? A. We had two; we had one on the thirteenth, I think, and one on the fourteenth —

and then we had — we talked two or three times casually before I started out. I stayed some time in Albany.

Q. And in those casual or other conversations there was nothing said by the Governor to you, except to investigate and find out the truth? A. That is all, yes, sir.

Q. And that is what you were there for? A. That is what I was there for.

Q. To get at the truth? A. Yes.

Q. Not to get at anything else? A. No.

Q. Well, after you had your appointment, Mr. Blake, you employed some men to assist you? A. Yes.

Q. Who were they? A. Wallace B. Hunter, John N. Bogart, Mr. R. Weller; a gentleman named Pierce, whose first name I have forgotten; I think that is all.

Q. How about Mr. Leeds? A. Mr. Leeds came afterwards.

Q. But that was in the first? A. Yes, this is the first.

Q. Leeds came very soon afterwards, didn't he? A. I think it was the third or fourth week; I don't recall the dates; the third or fourth week, I think.

Q. He got his first check on April third, according to your account which is filed with the Comptroller, for $100? A. Yes. Well, then, Mr. Pierce must have received two weeks' pay; I don't recall.

Q. That was Mr. Pierce? A. Yes.

Q. What was his capacity? A. Mr. Pierce and Mr. Leeds, they were both accountants.

Q. Both accountants? A. Yes.

Q. And Mr. Wallace B. Hunter, what was his work? A. He was a commissary expert.

Q. Had you had some acquaintance with Mr. Hunter before? A. I knew them all except Mr. Pierce at the start.

Q. How did you come to appoint Mr. Pierce? A. He was connected with the investigating committee that sat here and we had Mr. Pierce on that committee.

Q. And Mr. Wallace B. Hunter, where does he live? A. He lives in North Troy.

Q. North Troy? A. I can give you the number of his house if you want it.

Q. No, I just want to know about him generally; and you say you have known him for some time? A. Yes, for some years.

Q. What, in your opinion, were his qualifications as a commis-

sary expert? A. He had worked for a number of years for one of the cheaper restaurants — it wasn't Childs', it was one of the same character — as the purchasing and supply man and was familiar with foods.

Q. And you thought that that made him expert sufficiently for your purpose? A. Yes, sir.

Q. Did you know of any other capacity in which he worked? A. No, I don't recall.

Q. You never heard of any other work that he had done? A. He had not been employed by this restaurant for some time before I took him.

Q. That is what I am trying to get. How long before you took Mr. Hunter upon your staff had he had anything to do with restaurants? A. I don't know.

Q. Would you say whether it was ten or twenty years? A. No.

Q. Do you know whether it was or was not? A. I would not say.

Q. What was he doing when you put him on your staff? A. I don't know.

Q. Did you ask him? A. No.

Q. You didn't inquire at all? A. No.

Q. You didn't inquire what he had been doing for any number of years? A. No.

Q. But you knew that at some period of his existence he had been a manager of a restaurant? A. I took his word for it.

Q. And you paid him how much, or allowed him how much? A. I paid him $100 a week and $30 expenses and carfare besides.

Q. Well, I was going to say he didn't have to pay his transportation expenses? A. No.

Q. $130 a week. Did you inquire of Mr. Hunter when you employed him what he had been getting, when you took him on your force? A. No, I asked him what he wanted, and he said he wanted $100 a week and he wouldn't work for less and I wanted him and got him.

Q. He wanted $100 a week and you gave him $130? A. No.

Mr. Richards.—What was the last answer?

The stenographer thereupon read the last answer of the witness as follows:

"A. No, I asked him what he wanted, and he said he wanted $100 a week and he wouldn't work for less and I wanted him and got him."

Q. Then you allowed him $30 a week, you mean by that for expenses? A. Yes.

Q. And you gave him the price he asked for? A. Yes, sir.

Q. Now, with regard to Mr. Bogart, what compensation did you allow Mr. Bogart? A. $10 a day.

Q. And was that what Mr. Bogart asked or was it what you allowed him? A. I think that he asked that; we had some —

Q. (Interrupting.) Well, there wasn't very much difference between the way you fixed his compensation and the way you fixed Mr. Hunter's compensation? A. Not very much difference in the matter.

Q. All this time, of course, Mr. Blake, you were paying — you were using the State's money for these men? A. Yes, I intended to use the State's money.

Q. Then the other employees were whom? A. Mr. Pierce.

Q. And he came from the Committee of Inquiry? A. Yes.

Q. And Mr. Weller, he was — what was his capacity? A. Also with the Committee of Inquiry, I believe.

Q. And what was he paid? A. He was paid $10 a day.

Q. He was paid $10 a day? A. Yes.

Q. Just on the identity of Mr. Hunter I want to know whether you don't know and remember that Mr. Hunter was a manager for fake circuses and was known as that for years? A. No, I didn't know that.

Q. You didn't know it? A. No.

Q. How long had you known Mr. Hunter when you took him on your staff? A. I knew him not over very well; I met him several times, but I knew the man and I would call him Wally, and I have known him in that way.

Q. You had the impression that he was out of a job and he — and you thought you would give it to him, that is right? A. Is that a question?

Q. Yes. A. No.

Q. Is that the way you figured it out? A. No.

By the Chairman:

Q. Mr. Blake, for the information of the Committee, so it will be clear, you say you engaged Mr. Hunter to examine into the commissary? A. Yes.

Q. And agreed to pay him $100 a week? A. Yes.

Q. And $30 a week for expenses? A. Yes.

Q. Now, in employing a man to perform such a duty, did you make any inquiry as to his qualifications for that position? A. No; I knew in a general way that he would prove of value to me in my work and employed him because I knew him and knew that I could trust him.

Q. Well, I don't doubt that, Mr. Blake, at all. The only thing that we want to find out was that in making our report, in securing men to go into investigate I suppose you appointed Mr. Hunter for his peculiar qualifications to examine into the commissary, isn't that so? A. Yes.

Q. What way or what means did you use to find out if Mr. Hunter possessed those qualifications? A. Oh, I talked to him for — on two or three different occasions as to the general condition, and talked about the foods and cooking utensils, how he had done in the restaurant where he was employed, and how many ounces of food a man needed in a day, and how many pounds of coffee would be sufficient for a good quality of coffee for 500 men, all along that line, and I talked with him and got a pretty fair idea of what he knew. And then in some way I talked it over with him and with various other men about these things and came to the conclusion that he was a good man.

Q. We just want to get Mr. Hunter's qualifications. Did you ask Mr. Hunter when you were about to employ him, to pay him $100 a week, how long was it since he was employed directly? A. No; I didn't ask him.

Q. You didn't ask him that? A. No.

Q. You didn't know of your own knowledge how long it was since Mr. Hunter was employed in that capacity? A. No.

Q. Nor did you make any inquiries? A. No.

Q. You made no inquiries? A. No.

The Chairman.— That is all, Mr. Blake.

By Mr Richards:

Q. Well, just one question more on that particular line. Who recommended Mr. Hunter? A. He came himself and saw me when he saw the notice of my appointment in the paper.

Q. Did he tell you upon whose suggestion he came? A. No.

Q. He didn't tell you that he came on the suggestion of the Governor? A. No.

Q. You never thought that he came on the suggestion of the Governor; he just walked into your office or wherever you were

and applied for the position, is that it? A. He just walked in; yes, sir.

Q. And you then asked these questions about his experience? A. Either at that time or in the talks I had with him afterwards.

Q. How soon after your appointment on the 14th of March did you employ him? A. I can't remember these dates; it was either — I think it was a week, about a week I should say.

Q. About a week after — A. (Interrupting.) I should think so.

Q. About a week after you took office? A. I think about that.

Q. Well, you gave him a check for $189.74 on March 29th, which was 15 days after you took office; does that refresh your recollection as to when you finally employed him? A. No.

Q. That doesn't give you any idea? A. No; I can give you the precise date if you want it; I will be very glad to do that.

Mr. Richards.— Yes.

The Chairman.— Mr. Richards, it is suggested — how long do you propose going on today?

Mr. Richards.— Why, I think we had better go on until 1 o'clock.

The Chairman.— Wouldn't it be just as well if we took a recess for lunch and came back at 1 o'clock and then proceed?

Mr. Richards — I think that is a very good suggestion.

The Chairman.— The gentlemen of the Committee want to get away and you can have two or three hours, whatever you desire and we won't have any interruption. Before you proceed any further with Mr. Blake we better give Mr. Blake an opportunity to produce some of the papers —

The Witness (interrupting).— Oh, yes, I will produce anything you want.

The Chairman.— Won't you suspend with Mr. Blake? Do you want Mr. Harris for a moment before we take an adjournment; probably he has something.

Mr. Richards.— I don't think we want Mr. Harris until I ask Mr. Blake certain questions along certain lines.

The Chairman.— Very well, the court will adjourn —

Mr. Richards (interrupting).— Just one question or two.

Q. Now, Mr. Blake, so that you may prepare to tell us a little bit more after adjournment and so that you may be able to refresh your recollection, attached to this report on Great Meadow Prison is a report sworn to by a man by the name of J. P. Francisco, and another report sworn to by a man by the name of T. E. Burney. Can you tell us anything about where those men are now? A. Yes; I think they both live in Rome. Is it Rome?

Q. One of them — one of the reports is dated Comstock. A. I will get the address.

Q. I have the address here, but I wanted to know if you had seen or heard of either of them recently? A. No.

Q. You haven't seen or heard of them since you got their report? A. No; I have heard from them.

Q. You have? A. I have heard from them.

Q. How recently have you heard from them? A. Oh, a few days after I signed a check for his services he sent me a receipt.

Q. But except for a few days after their report you haven't heard from them? A. No.

Q. Now, the only unfortunate part of it is that in the case of Mr. Burney it doesn't even tell where he lives, any address. Can you get us Mr. Burney's old address? A. Yes, I have got a letter I think from him.

Q. Well, you might let us have that after recess. A. I will give you that, yes, sir.

Mr. Richards.— That is all, Mr. Chairman, so that he can have that.

The Chairman.— The Court will be in recess until 1:15; Mr. Blake, you will be here at that time; all other witnesses that are subpœnaed will kindly be here at 1:15 P. M.

Whereupon, at 12:15 P. M., the committee took a recess until 1:15 P. M.

AFTERNOON SESSION.

1:30 P. M.

Present: Same as before.

Appearances: Same as before.

The Chairman.— The committee will come to order.

Mr. Richards.— Mr. Chairman, will you ask if there is any-

body here from the Comptroller's office with the papers that were taken away?

The Chairman.— Is there anybody here representing the Comptroller?

(No response.)

The Chairman.— Are you ready, Mr. Richards?

Mr. Richards.— Oh, yes; I think we can go ahead with Mr. Blake. Will you take the stand, Mr. Blake?

George W. Blake recalled.

Examination by Mr. Richards:

Q. Mr. Blake, when we took an adjournment I was asking you about the whereabouts or address of J. P. Francisco and T. E. Burney. A. Yes, I can give you those now.

Q. Have you been able to get those? A. Yes; T. E. Burney is at West Willett street, Rome, New York; J. P. Francisco is at 36 Hart street, Utica, New York.

Q. What was the address of the Utica man again? A. 36 Hart street.

Q. When did Mr. Francisco move to Utica; that is, when did you hear that he changed his residence? A. I don't know. Did we have a letter, Mr. Weller? We did have a letter?

Mr. Richards.— Have you got that with you, Mr. Weller?

Mr. Weller.— No, it is at the office.

Mr. Richards— It was about what date, so we can get this; about what date did you hear of the change of residence?

Mr. Weller.— About two weeks after he came there.

Q. Well, now, with regard to Mr. Francisco, he says that he was qualified to act as an expert on pipe covering? A. Yes.

Q. Having been in the business for the past twelve years continuously. When did you first get in communication with Mr. Francisco about this matter? A. I got a letter from a gentleman whose name I can't recall but which I will find out. I will get it for you. I don't recall his name, who told me that Mr. Francisco had some very important information that he thought I ought to have, and an appointment was made; this correspondence took place when I was in Auburn, and when I got through with

Auburn I wrote to this gentleman making an appointment to meet Mr. Francisco, this man and one other person, at the Baggs Hotel, in Utica; I went there and met them and we had a talk; he gave me his card and told me that himself, that he had been in the business for many years and that he was an expert.

Q. In other words, he came to you through some unknown source — A. (Interrupting.) No, not unknown.

Q. Well, some source that you can't remember? A. For a moment; I can get you the name.

Q. Did you employ him? A. No, I didn't employ him.

Q. You didn't employ him? A. No.

Q. What do you mean by that, that you didn't pay him anything — A. (Interrupting.) Didn't pay him anything except when he came to Great Meadow I paid his expenses, his railroad fare and his meals.

Q. Then he was a sort of a volunteer? A. Yes.

Q. He was a volunteer. He claimed to have certain information which he thought would be of value to you; his information which is stated in his report annexed to your report, signed and sworn to by Francisco, is that the information which he brought to you that night? A. No, the information was —

Q. (Interrupting.) Well, that answers my question. A. No.

Q. We will get at it that way. But at any rate, as a result of that conversation, you employed him as an expert? A. Not at that time, no.

Q. Well, when; when did you employ him as an expert? A. After I had got to Great Meadow and looked over the ground there and had taken some testimony I felt that I needed somebody — and gone up and examined the pipe coverings, and I recalled this man and I sent for him and he made the examination for me.

Q. When did you meet him in Utica? A. I can only tell you approximately, and that was on my way back from Auburn.

Q. When did you go to Auburn? Let us try to get it if it is possible. A. I can get it, Mr. Richards; of course, you understand I can't remember these dates. If you want those dates I can get those dates precisely for you; I can locate them by the files but I should think it was along about the 21st or 28th, about the 28th, the latter part of March, along the first part of April.

Q. You went first in your investigations to Auburn, did you? A. Yes.

Q. Was that the first that you visited? A. Yes.

Q. And then from Auburn the next prison that you visited was Great Meadow? A. Yes.

Q. And when did you get in touch with Mr. T. E. Burney; how did you get hold of him? A. I telephoned to Mr. Francisco and I told him that I wanted him to come down and look over the piping of the prison and asked him if he knew any building expert who would look at the construction for me; he said he knew a man who had been an expert in the employ of the New York Central for a number of years, for construction purposes, and I said I thought he would do, to bring him along with him; and he came, bringing Mr. Burney.

Q. So some person whose name you can't remember now presented by a letter or some other — A. (Interrupting) Let's see if I can get that for you. Do you remember the name, Mr. Weller, of that man?

Mr. Weller.— Lynch.

The Witness.— No, it wasn't Lynch; that will save you putting in the record the "unknown" person, because he is not unknown.

Q. An unidentified person. Did you look up Mr. Francisco's references or anything else with regard to him? A. No.

Q. You took him up on his own — upon his own valuation? A. And the recommendation of this —

Q. (Interrupting) This person unidentified. A. (No answer.)

Q. This unidentified person was the recommendation of Mr. Francisco? A. I was just wondering whether unidentified was the word to be used, that is all.

Q. And then Mr. Francisco — A. (Interrupting) This man was, I guess, a former Assemblyman and was here when I was a correspondent here, and of course he was a very sincere public servant.

Q. Was he a member of the Assembly at this time? A. No, at one time; yes, I made his acquaintance here and have known him ever since.

Q. But you can't remember his name at the present time? A. It is singular that I can't recall his name.

Q. Now, who else besides the ones that you have mentioned did you employ? A. That is all, those two.

Q. That is all. Now, Mr. Blake, it is a fact is it not that you have filed no vouchers with the comptroller since the third day of May? A. I have not filed any vouchers for some time, but I don't know the precise date.

Q. Well, is there any doubt in your mind but what that date was the third of May? A. No, I will accept the dates.

Q. And for two months — that is just two months to-day — you have been receiving monies of the State and paying out monies of the State? A. I received money once and paid out several.

Q. Didn't you receive money on the 15th day of May, $2500? A. If I had my bank book would give you the dates.

Q. Well, here is the account with your bank, so that we won't — A. (Witness examines paper) Yes, that is evidently all right.

Q. And when you got that $2500 you then had a balance in the bank, did you not? A. I think we had a few hundred dollars.

Q. And then when you got that money you did not account for your disbursements up to the 15th of May? A. I don't think so, no.

Q. Then, on the 21st day of June you got $1400 more, did you not? A. Yes.

Q. And again you didn't account with any vouchers? A. I don't think the vouchers were filed covering those amounts.

Q. And on the 5th day of June you had obtained or been appointed to the position of Clerk of the Prison Department? A. Yes.

Q. And your designation for the purpose of this work was changed, was it not? A. No, I think not.

Q. You think not. That is, I don't mean that you are still a commissioner, but the basis of your designation and your expenses was changed? A. Oh, yes, as far as the financial proposition is concerned.

Q. You then, on the 5th of June, you then only received — A. (Interrupting) A salaried employee.

Q. Your actual expenses? A. Yes.

Senator Sanner.— Mr. Richards, there is the Comptroller's man.

Mr. Richards.— Have you got those papers again?

(Mr. Wood passes papers to Counsel.)

Q. And it would appear by your account that on June 12th, a week after you were appointed, that you got a check to your own order for the sum of $100; what was that for? A. No, that was in the matter of — Mr. Hunter came — a week or two weeks before that and told me that he thought he was entitled to a week's

pay because of work he had done since I had dropped him from the payroll. He had written a report and had done several odd jobs; I told him I had a doubt about his right to this money, but I was in a hurry to go away and I gave him the check and we would settle it afterwards; so in case I decided he was entitled to the money and if he wasn't entitled to the money he was to return it; I wrote him a letter a day or two after that and said he wasn't entitled to the money and said you can return it. He has returned it and the money is deposited in the bank.

Q. When was it deposited in the bank? A. To-day; I only got it to-day; here is the deposit slip.

Q. Yes, that is all. When did you make a demand on him for the return of that? A. I think about a week or ten days ago; I don't know. It was about two or three days I think after I had given him the check.

Q. But he did not pay it back until— A. (Interrupting) I think he was out of town.

Q. Until to-day? A. I don't think he was at home. I didn't hear anything further from him. To-day he came into the office and paid the money.

Q. Now, Mr. Blake, with reference to these payments and your appointment and your salary; I wanted to ask you about that a little. You presented this, did you not, to the Comptroller, this designation, your commission? (Counsel passes paper to witness.) A. I really don't remember whether I did or not; whether it was sent there or whether I carried it over.

Q. And with that you brought or caused to be sent to the Comptroller a letter from the Governor dated March 14th, 1913? A. May I see that? (Witness examines paper.) I think that is the letter, yes, or such letter.

Q. Then when you presented some vouchers on April 21st, or just before April 21st — I think that is the presentation of April 5th, the Comptroller refused to pay, or rather to approve of those vouchers, didn't he; and didn't he write to you a letter of which that is a copy? (Counsel passes paper to witness.) A. (After examining) I got a letter from him and I presume that is an accurate —

Q. (Interrupting) This was quite an important matter for you, wasn't it, Mr. Blake? Don't you think you could remember that letter or the substance of it? A. I paid very little attention to that, to the financial end, Mr. Weller attended to that.

Q. Mr. Weller wasn't interested in your compensation, was he? A. Oh, not at all.

Q. But this referred to your compensation of $25 a day? A. That is the letter doubtless.

Q. That is doubtless the letter? A. Yes, sir.

Mr. Richards.— I offer that letter in evidence.

The letter referred to was received in evidence and marked Exhibit No. 8 of this date and reads as follows:

STATE OF NEW YORK, COMPTROLLER'S OFFICE,
ALBANY.

Mr. GEORGE W. BLAKE, *Special Prison Commissioner, Executive Department, Albany, N. Y.*

DEAR SIR: I am returning herewith two vouchers, one in the amount of $438.98 containing the following charge:

" March 29, expenses, March 14th to 30th inclusive, at the rate of $25 per day, $425."

The other voucher in the amount of $222.96 containing an item:

"April 5, expenses, March 31 to April 5, inclusive, see below and expenses at rate of $25 per day, from March 31 inclusive to April 25 inclusive, 6 days."

This voucher also covers a charge

"April 5, petty cash, March 14 to April 5 inclusive, see below, $16.50."

And the other note

" Petty cash, telephones, Comstock to Treasurer Conway, Washington County, telegrams, postage, messenger services,"

The department has received from the Executive Department a letter dated March 14, 1913, referring to your appointment as a special commissioner to serve without compensation and setting forth the duties thereof and also authorizing this department to pay you $25 a day for your expenses. We do not see how we are able to comply with this as section 2 of the Finance Law provides:

" If such statement, if for traveling expenses, the distance traveled, between what places, the duties or business for the performance of which the expenses were incurred, and the dates and items of each expenditure."

This very clearly provides that these accounts be itemized, giving the dates and items of each expenditure. Your attention is also called to the words on the back of the voucher which provides for the furnishing of subvouchers for various charges. The charge for petty cash also comes under the above rules, as to dates

and items of each expenditure. If you will return the vouchers corrected to comply with the above section of the Finance Law, the vouchers will then be credited to your account.

Q. Now, on what theory did you make up an account at that time that your expenses were $25 a day? A. When I was appointed by the Governor — at least when we talked about this appointment, he told me he wanted me to do this work but nothing was said about compensation. Then the commission was brought in and when I noticed the line "no compensation" I said to him I couldn't do the work without compensation. "Well," he says, "when the work is over an allowance will be made you for your work;" but I says, "in the meantime I can't work — I can't finance the work of the State." The Governor says "You will be allowed $25 a day for expenses and then when the thing is over" he says, "I will provide for the proper compensation for you, and it was on that basis that I worked.

Q. Then the suggestion came from the Governor that you should charge $25 a day? A. Yes.

Q. It was his suggestion. And it was in pursuance of the Governor's suggestion that you presented the bill for $25 a day? A. Yes.

Q. And that the Comptroller refused to pay at that time? A. Refused to pay because of the way it was presented in the voucher, yes.

Q. Well, he refused to on the question of your appointment, didn't he? A. Well, that was straightened out afterwards.

Q. That appointment said without compensation and your first voucher that was turned in put this down as salary, did it not, $25 a day? A. It did, because it is there, but I didn't know that it had been put in that way; I did not see the voucher; it ought not have been put in that way, but that was a mistake.

Q. You signed that however? A. I did but I neglected to go over it.

Q. Now, then, after you got this letter from the Comptroller, telling you in substance, that you could not draw this so much per day, you then wanted to have it corrected in some way or other so you could legally draw it? A. Certainly.

Q. And this was some time after the 21st of April, that is the date of the letter which I have just read to you, and you had been drawing this, hadn't you, at the rate of $25 a day, out of the bank account? A. I had not been drawing it as salary at all; I wouldn't consider it only as personal expenses.

Q. You had a commission which said that you were to serve without compensation; what were you taking it for? A. I wasn't taking it as salary.

Q. Were you taking it as compensation? A. I was taking it as an allowance for my work.

Q. You are a man who is used to language. What is an allowance for work except compensation? A. No, compensation — I don't know, I suppose a salary is a fixed amount and a compensation is anything that you get.

Q. Then you took this $100 as something that you got. A. Something that I got.

Q. Not expenses, it wasn't expenses, was it? A. It was expenses —

Q. Now let us see. A. It was expenses —

Q. Wait, now wait. March 22, a week after you took office, George W. Blake, commissioner, $100, was that expenses? A. Yes.

Q. For what? A. Well, it was my personal expenses which was used for —

Q. I didn't mean of course for personal expenses; you would be entitled to use for personal expenses any of your personal monies; but I am talking about expenses necessarily incurred for the State? A. Certainly it was.

Q. You took that for expenses incurred by the State? A. Incurred by me for the State.

Q. For the State? A. Yes.

Q. What for? A. I don't know.

Q. Did you ever account for that? A. No, I never made any itemized account.

Q. No, you took that $100 and you never accounted for it as far as expenses are concerned? A. No, I never made any itemized account.

Q. Then on the 2d day of April, you took $400, was that for expenses? A. Yes.

Q. What did you do with that? A. I used it for expenses.

Q. In other words, for your own expenses. A. For my own expenses during this work, yes.

Q. Do you mean to say that you used $500 between March 22d and March 31st in expenses for the State? A. I did not figure it on that basis at all; I figured that I was entitled to draw $25 a day and to pay my expenses out of that amount, and I drew it — I endeavored to draw it once a week, I didn't always succeed.

Q. Now, we come down to some other checks in the line, that is the checks for expenses on the 20th of April, George W. Blake, Commissioner, $129.90. Wasn't that the check for expenses? A. No, I don't — I can't answer those questions, Mr. Richards —

Q. Well, Mr. Blake, you have criticized other people for failing to keep proper books. Did you keep books? A. No; I didn't keep books because I didn't think it was necessary for me to keep books; there was no legal requirement, as I understood, for me to do it, see.

Q. Look at your commission again. Did that commission say anything about taking a salary or taking money and not accounting for it? A. No. Neither did it say that I should account for expenses.

Q. Before this check for $129.90 hadn't you drawn checks to the Osborne House for your expenses? A. But I did not charge those in my expenses, I paid them out of the allowance of $25 a day for my expenses.

Q. Did you? A. Yes; you refer to a check to the Osborne House for office; I hired a room there for an office; that is what you probably refer to.

Q. Marvin C. Merritt, who is he? A. Who is she? That is a typewriter.

Q. That was for typewriting? A. Yes.

Q. G. J. Benson, who is he? A. He is the proprietor of the Turkish Baths in Albany.

Q. Did you have a room there, and was that for expenses? A. No; I had an office there, where we did our work.

Q. You had an office there? A. Yes.

Q. Now, let us get along a little further, Mr. Blake. On April 21st you drew $350; what was that for? A. That was the same thing, $25 a day.

Q. On the $25 a day? A. Yes.

Q. Now, that was the situation when you were told by the Comptroller that he could not pay you and allow you for $25 a day; that was the situation that you were confronted with, wasn't it, that you had taken out $25 a day and he told you that he was not going to allow it? A. He said he would not allow it; it could not go in as expenses unless it was itemized.

Q. And you could not itemize it? A. I did not itemize it.

Q. You could not itemize it? A. I could have if I had known; I did not at that time, because the money had been spent and no

record had been kept of the expenses, so we changed the form so it was satisfactory to the Comptroller.

Q. Do you mean to say that you did pay $25 a day? A. All this money was spent, this money was not spent $25 each day, but the money was spent during the term of the work; the total amount was spent in the performance of the work; and understand me, I haven't anything to conceal; I want to be as frank and open as the day; this money, when I say the expenses of the work, was also the expenses of my family while I was doing the work; I probably took out $500 or $600 for the expenses of my family while I was doing the work; I have had no allowance for this work and I have not been paid a cent for this work that I have done. That is the explanation of it, and I had to have the money.

Q. You had to have the money? A. Yes; I had to have the money and I could not live without it.

Q. And this was handy? A. What do you mean?

Q. This bank account? A. No.

Q. You were told by the Comptroller that you could not draw that? A. No; the Governor told me to draw it; it was his fund.

.Q No; you had been told by the Comptroller that he would not allow your vouchers? A. Wait a moment; he said unless I changed the form from expenses to disbursements that he could not allow it; then we did change the form and then he said he could allow it.

Q. You were drawing it for your personal expenses and the expenses of your family? A. No; I only used very little; I don't suppose I used $500 of the whole thing to carry me along until this work was finished.

Q. Then on May 1st you drew a check to bearer for $500; what was that for? A. I think that was some — I don't recall, but it was for this allowance for some other expenses, I think; I don't know just what it was.

Q. Look at that check; that is the one. A. (After examining) Yes, I see the —

Q. (Interrupting) That is the one, isn't it? A. That is the check.

Q. You mean to tell us — just let us see if you cannot refresh your recollection; you mean to say that you cannot tell us that when you drew $500 in cash over the counter of the Albany Trust Company, you don't remember what that was for? A. I think that the—I don't know whether this is shown here or not; I have

all these figures here in itemized detail which I have brought for you.

Q. What is the best of your recollection? A. I don't remember that.

Q. That ends it. You cannot remember what the $500 was for? A. No.

Q. Another thing. These other checks shown on the original transcript of the bank were numbered from 1 to 74, right straight along in order. I ask you to look at that? (Passes paper to witness.) A. (After examining) I have seen that.

Q. This check is numbered 201. Have you any idea why you did that? A. Because that check was a loose check and I did not know what the last number was and I put a high number so I would be able to keep track of it; I think that is all.

Q. Why on the first day of May you had reached check No. 37; was that the nearest that you could get to 37, 201? A. Now, Mr. Richards, you know here are all those accounts; if you will look over these you will find that the money has all been accounted for, that there is a balance in bank, and you will find every item that has been spent. It may save you a lot of trouble to take all these things at one time.

Q. I just want to get your recollection on this particular check; $500 cash over the counter? A. Well, I don't remember.

Q. Now, on the 30th of April, you heard Mr. Wood say this morning that this new letter came back from the governor which straightened out this $25 a day business. Now, you went down to the Comptroller's office (witness nods head).

The Chairman.— Mr. Richards, did he answer your question?

Mr. Richards.— The answer was "yes," I think.

The Chairman.— Did you answer?

The Witness.— Yes.

The Chairman.— You answered yes; I only wanted to make it clear.

Q. You went to the Comptroller's office, as I understand it, and you talked with the officials there in regard to how this thing could be arranged, is that right? A. Yes.

Q. But you were officially shown Exhibit 5? (Handing witness paper.) And you say that is what was there? A. I knew

it was there; I don't know whether it was shown to me at that time.

Q. And you brought it down before? A. Yes, I think so.

Q. And then did you take that away? A. I don't remember.

Q. You can't tell whether you took away the original letter of the Governor which had made the original arrangement; now, see if you cannot tell us? A. I don't remember. If I remembered, I would tell you, but I don't remember.

Q. Well, wasn't this an important thing from your standpoint, that it appears that you had been drawing for expenses at the rate of $25 a day and the Comptroller had refused to allow your vouchers for that amount, and you wanted to try and fix it so you could? Don't you remember whether you went there and got that letter back? A. No, I don't remember.

Q. Well, you wouldn't say that you didn't? A. Well, I hope you know that I am telling the truth.

Q. Well, your recollection — A. I don't remember; if I did I would tell you.

Q. You don't remember. At any rate you did get a new letter from the Governor? A. Yes, I am quite sure of that.

Q. Dated back to the 14th of March? A. It was to take the place of this other letter.

Q. Let us see now. Antedated to the 14th of March and that is it, isn't it, Exhibit 6? (Handing same to witness.) A. Yes.

Q. And did you return to the Comptroller's office the original letter of the Comptroller which you got this as a substitute for? A. I don't remember.

Q. Now, all this while, Mr. Blake, you were examining the records and the correctness of the behavior of the officials of the State's prisons? A. Yes.

Q. And you had at that time criticized the incorrectness at least of their methods in keeping their books and papers and records? A. I don't remember that.

The Chairman.— Well, Mr. Richards, for the benefit of the committee, so we will get it clear. You desire to prove how many days between the original letter and this subsequent letter had intervened when this subsequent letter was substituted for the original.

Mr. Richards.— That has been proven as April 30th.

The Chairman.—And the original was March 4th?

Mr. Richards.— March 14th.

The Chairman.— That is six weeks, Mr. Richards?

Mr. Richards.— Yes, that is six weeks.

The Chairman.— And then you say that this letter of the Governor's was antedated.

Mr. Richards.— Antedated.

The Chairman.— From March 14th?

Mr. Richards.— Back to March 14th.

The Chairman.— To take the place of the original letter.

Mr. Richards.— To take the place of the original letter, which is not in the files of the comptroller, as has been testified to here.

The Chairman.— I see.

By the Chairman:

Q. Mr. Blake, you don't know who took that letter from the comptroller's office, do you? A. No, I don't remember; there were many things doing that I don't recall.

Q. What we want to get here is the letter. Mr. Richards tried to show here that a letter transmitted from the Governor to the Comptroller of the State in reference to your designation, which did not provide for a payment — that was the original letter as you understand it? A. Yes, I think so.

Q. Then sometime about April, along the latter part of April you had a further conference with the Governor and told him that you could not continue work without some compensation? A. Yes.

Q. Then the Governor had a letter written then and had it dated back to March 14th, notifying the Comptroller to pay you this $25 a day in lieu of expenses, six weeks after. That is the way it is. A. I presume it is correct, although I have no personal knowledge about that.

Q. That is as you understand it and your best recollection? A. Yes.

The Chairman.—All right, thank you.

By Mr. Richards:

Q. After you had got this new letter antedated by the Governor they then O. K'd. the vouchers that you had theretofore presented and approved them? A. I think so, yes.

The Chairman.— He has admitted that; he has said that is the course they pursued.

Q. And after that you went on and drew this $25 a day? A. Yes.

Q. Now, Mr. Blake, let us take up Great Meadow. When did you go to Great Meadow? A. About 10 days before the date of that report.

Q. How long were you there? A. About ten days.

Q. Now, Mr. Blake, are you prepared to say here that you were there over three days? A. Yes, I was there, I am sure, from a week to ten days; I don't recall the time.

Q. Can you tell us when you went? A. No, I cannot tell you now; I think I can look it up and find out the precise days for you, but I don't recall.

Q. Perhaps your expense account would show, from what point did you go to to get to Great Meadow? A. Auburn.

Q. Auburn? A. Yes.

Q. Didn't you go to Albany first and then from Albany to Comstock? A. Yes, but there is no prison at Albany; I mean the next prison I went to from Albany.

Q. How long did you say you stayed there, at least seven days? A. I should think it was at least seven days.

Q. Are you prepared to say that you stayed there more than four days? A. No, I won't tell you; I don't remember, I don't remember how long I stayed there.

Q. Isn't is a fact that you went from Albany to Comstock on April 2nd? Comstock is where the Great Meadow prison is, isn't it? A. Yes.

Q. And that you returned from Comstock to Albany on April 6th? A. No; I may have come back and then returned to Great Meadow; I may have made the trip.

Q. We have got to get on this record not the things that may have happened, but the things that did happen; did you go again as a matter of fact? A. I don't remember.

Q. Well, anyway, if you went on April 2d and returned on April 6th, you made your report on April 9th, you did not go again between the 6th and the 9th, did you? A. I don't remember, Mr. Richards; I would like to help you in this, but I don't remember.

Q. Well, look at that report and tell me. A. I will accept your dates as you mention them from the report.

Q. What I want to get at is, did you spend more than four days in the examination of Great Meadow as a basis for the writing of this report of April 9th? A. Yes, we spent several days in going through the contract and specifications in Albany.

Q. In Albany? A. Yes.

Q. With whom did you go over the contract and specifications? A. With Mr. Leeds; I think Mr. Bogart was there and I think Mr. Weller was there, probably nearly all the time; we went through them pretty carefully.

Q. What others did you say you went through it with? A. I think Mr. Leeds, Mr. Bogart, perhaps Mr. Hunter was there for a day, and we all worked in looking at these specifications and the contract.

Q. When did you take Mr. Leeds on your staff? A. I don't know the date.

Q. Well, Mr. Henry Leeds on April 3d got $100; was he there before that? A. No, April 3d, that was a payment in advance, I think; that was a payment of one week's salary in advance.

Q. Then you, had not done any work there, Mr. Leeds or you on the Comstock proposition or Great Meadow prison until April 2d, is that right? A. If the — I don't remember the dates, I really cannot tell you.

The Chairman.— Let me ask a question, so we can get clear.

By the Chairman:

Q. We understand, Mr. Blake, you advanced to Mr. Leeds $100 before he started to work for the State? A. Yes; he had to come from New York and had to make certain preparations and I wanted his services and I paid him a week in advance to take up the work.

Q. Was that a custom of your Committee, to advance money? A. That was the first time it occurred; it has not become a custom.

The Chairman.— I wanted to ask a question of Mr. Blake before we got away from that letter.

Q. Mr. Blake, did you think that was an honest thing for yourself and the Governor, when you were investigating other men's failings, to antedate a letter six weeks? A. If I did not think so, I would not have stood for it.

Q. Then you thought so? A. I don't know whether I gave the thing any particular thought or not.

Q. But you did know that the Governor had designated you as a commissioner without pay; after several conferences with the Governor and your explaining to him that you could not perform the services without payment personally. A. But you see, I had received no pay; that is where we split.

Q. Just a moment; was not $25 a day paid to you in lieu of your expenses and you admitted here that you needed some of that for your family? A. For my living expenses; I could not have done the thing without my expenses; I considered that part of my expenses.

Q. We are not questioning that; you are entitled to your expenses and you are entitled to as much salary as you can get; we are not fighting with that at all. A. I am afraid I won't get any the way the thing has worked.

Q. We don't want that; we want to get the methods and correctness of the entire transactions. A. I think you understand it now.

Q. Yes, only we want to know from you, because you appeared in the role of criticising and examining other departments in this State; you conferred with the Governor and had a letter antedated six weeks so as to cover your necessary expenses. A. No, that was to remedy a mistake, that letter.

Q. Yes, and to remedy the mistake could not the letter have been dated on the date the Governor wrote the letter? A. He might have done that; he ought to — probably he could have done that; I don't know about that.

Q. Then I ask you, do you think that when both of you joined in that transaction that that was an honest transaction, as officers of the State? A. Certainly I think so.

Q. You think so? A. Yes, perfectly, beyond all question.

The Chairman.— That is all.

Mr. Leeds.— May I make a statement?

The Chairman.— Not now.

The Witness.— This is Mr. Leeds.

Mr. Leeds.— Just to make the record clear.

The Chairman.— Not now.

The Witness.— Just to keep the record straight.

Mr. Richards.— Well, any corrections that you may have to make afterwards, I am sure the Chairman will permit you to

make. You need not worry about that; I will excuse you for a moment, Mr. Blake, just temporarily. I want to call Mr. Harris.

Edwin S. Harris, a witness called by the Committee, having been first duly sworn by the Chairman of the Committee, testified as follows:

Examination by Mr. Richards:

Q. Mr. Harris, you are a deputy comptroller of the State of New York? A. Yes, sir.

Q. And have been such for over two years and a half? A. Well not quite so long as that; two years.

Q. A little over two years. You were deputy comptroller and discharged the duties of that office in March and April of this year, were you not? A. Yes, sir.

Q. Do you remember an interview between yourself and Mr. George W. Blake when your office had held up the approval of his vouchers providing compensation at the rate of $25 a day? Do you remember such an interview? A. I remember his discussing that with me.

Q. You had before that taken the opinion of the Attorney-General on the vouchers that he had presented? A. Yes, sir.

Q. And he had told you that they should not be approved? A. The Attorney-General was of the opinion —

Q. (Interrupting) Yes, but I am just giving the substance. A. That it must be itemized if it was an expense account.

Q. And Mr. Blake did not and could not itemize the $25? A. Mr. Blake told me that he could not itemize it to our satisfaction.

Q. Did you then show him a certain letter dated March 14th which was then in the possession of the Comptroller? A. I showed him a letter of designation from the Governor dated some time in March.

Q. Just to refresh your recollection I ask you whether or not that is the letter annexed to the Attorney-General's letter? (Passes paper to witness.) A. Yes, sir, I recognize that as the designation.

Q. Then did Mr. Blake take that letter away? A. He took it from my desk; yes, sir.

Q. You did not see it again after that? A. I have never seen it since.

Q. Then did he later come in with another letter dated March 14th, signed by the Governor, in regard to the matter of his compensation? A. Yes, sir.

Q. And is that the letter, dated March 14th, which Mr. Blake brought into your office, Exhibit No. 6? (handing paper to witness.) A. Yes, sir.

Q. And that was brought in, as Mr. Wood testified this morning, about the 30th of April? A. Yes, sir.

Mr. Richards.— That is all, Mr. Harris.

George W. Blake, recalled for further examination.

Examination by Mr. Richards:

The Witness.— I want to correct the record, if I may. I said I had advanced that $100 to Mr. Leeds, but it appears that was a payment from the 29th to the 4th and it was not an advance; I think I also said this money was not audited, according to my recollection, in the comptroller's office until after this letter; I think I was mistaken and they were audited.

Mr. Richards.—Well, the exhibits in evidence show they were not; of course that is in evidence.

Q. Now, Mr. Blake, when you drew your report of April 9th with regard to Great Meadow prison, what did you have before you as a basis of that report? A. I had the testimony from men who were connected with the prison, the testimony of Mr. Francisco and Mr. Burney and an examination of the contract and specifications; I think that was all.

Q. Mr. Leeds you say had worked then — A. Yes.

Q. Had worked on the Great Meadow proposition? A. Yes.

Q. And did you file any report by Mr. Leeds with your report of April 9th? A. No, I think — I do not think I filed that; I do not think we have it.

Q. Will you produce it at the next hearing, Mr. Blake? A. If I have it, but I am not sure I have it; if I have it, I will do so.

Q. Then, you had a report from Mr. Leeds; what was that on? A. That was on the general physical structure of the prison; Mr. Leeds is here; you can ask him.

Q. Mr. Leeds is an accountant; not on the physical structure? A. Yes.

Q. Oh, he is an expert on other things as well? A. Yes.

Q. And you also had Burney on the physical structure? A. He did the measurements.

Q. Did Mr. Leeds go into the accounts of the prison? A. Yes.

Q. And gave you a report on that? A. Yes, sir.

Q. And you had that before you? A. Yes.

Q. What was the total expenditure for construction of Great Meadow prison? A. At that time I think it was over a million dollars.

Q. As a matter of fact, see if I cannot refresh your recollection, that the total expenditure for the construction of buildings of Great Meadow prison from the year 1909 to the present time or the date of your report, was $955,000, just short of a million dollars? A. No, I think it is over a million; I think those figures you give are wrong; they are gotten up wrong.

Q. Maintenance $131,000 and the total for construction and maintenance $1,086,000 roughly. Isn't that right? A. I don't know whether you are right; I do not think you are about that; I think you are wrong; I think it is over a million.

Mr. Richards.— These were prepared by the Comptroller, Mr. Nichols; I can put him on the stand if you like; just wait one moment; we will take you off; just step aside for a moment and we will prove that. Is Mr. Nichols here?

J. Scott Nichols, a witness called by the committee, having been first duly sworn by the chairman of the committee, testified as follows:

Examination by Mr. Richards:

Q. Mr. Nichols, you are employed in the Comptroller's office? A. Yes, sir.

Q. And at my request did you make up a statement of the appropriations and the expenditures for all purposes on Great Meadow prison? A. Yes, sir.

Q. Is the statement that I show you the statement that you yourself prepared from the original books in the Comptroller's office? A. Yes, sir.

Q. Thank you; that is all. A. There are some sub footings that have been placed there since; that is all.

Mr. Richards.—That is all, Mr. Nichols. Now, Mr. Blake.

George W. Blake, recalled for further examination.

Examination by Mr. Richards:

Q. We will assume for the sake of argument, without your having to examine these figures, which you can examine at your

leisure, that it was a little over a million dollars for the construction of buildings; I call your attention to this particular language in your report almost at its opening:

"A conservative estimate fixes the loss to the state by the construction of the buildings through carelessness or graft at $500,000."

Did you make that statement? A. I did.

Q. Did you believe it? A. I did, absolutely.

Q. On an expenditure of a million you say, from a three or four day visit, from a report from Mr. Francisco and Mr. Burney, a report from Mr. Leeds, you say that half of it was graft? A. Yes, and you can prove it to your own satisfaction by going up there; it is only two hours from Albany.

Q. You are sure about that? A. Yes.

Q. Will you tell us where it comes in; we want to know all about it? A. Mr. Burney told me —

Q. No; we do not want to know about Burney. A. You want to know where I get my figures; Burney told me that he would be glad to take $400,000 for that contract; some of the walls are plaster board; a good many of the floors are wood in place of being concrete; none of the prison machinery works.

Q. Are you stating something that somebody else told you or what you know? A. Oh, yes; it is a question of testimony, sworn testimony.

Q. Where is the testimony? A. I think you called for it.

Q. We called for it but we cannot get it. A. You called for it; you called for the original testimony.

Q. Have you got it here? A. I have not got the original.

Q. Have you any copies? A. You did not ask me for it; if you ask me for it, I will give it to you. You did not ask for it; you said original memoranda and statements.

Q. You judged that testimony would mean original testimony? A. The original of course is in the possession of the governor; I think I can find a copy of it, which you are welcome to.

Q. You were in the executive chamber when you were served with this subpoena? A. No, I was just in the entrance.

Q. All right, in the entrance. Did you look in this subpoena and see what it called for? A. No, not at that time, not for an hour or so.

Q. What did you do, walk out of the building and look at it afterwards? A. I looked at it, yes, I think on the way down; I have got the original subpoena here.

Q. You have probably got it in your possession? A. Yes. (Witness produces original subpoena.)

Q. Now, when you saw this called for all original reports, testimony or affidavits in your possession or under your control in respect to Great Meadow prison, did it occur to you to ask whether those things were in the governor's office and could be got? A. No, I supposed you could send to the governor's office.

Q. I didn't know but what you might have been enough interested in the question to see we got those things? A. I am interested in it because I want you to help in fixing up the prison situation and I am doing everything I can for you.

Q. Excellent, excellent. A. I have no original of those reports, but I have got a copy I am sure.

Q. Well, you say there was some testimony taken? A. Yes.

Q. Where was it taken? A. At the prison.

Q. Was it taken at the prison? A. Yes, sir.

Q. You mean with reference to construction? A. Yes; the testimony was taken from the principal keeper and the employees, the men in the prison who were familiar with the construction.

Q. You got the testimony of the prison keeper; what was his name? A. Chadwick, I think; I will give you a copy of the testimony.

Q. I want to get a little better idea of your recollection, you are so clear that this was a clear statement of fact? A. Absolutely clear.

Q. That you have made with authority; tell us who your authorities are? A. Why, the testimony of two experts, examination of the structures, going through them letters from Mr. Ware and Sussdorf and other statements.

Q. When did you see the specifications and this contract that Mr. Francisco refers to in his report between Superintendent Scott and Pasquini, where did you see that? A. I think we saw them all at once; I think they were gone over a part in Great Meadow and a part in my office in Albany.

Q. You mean you had the contract in Great Meadow? A. I had a copy of the — I had a copy — I have got copies of the contract and specifications.

Q. That is what I want to get at; what did you get? A. We got the contracts and specifications for this work.

Q. Did you ever see the original contract? A. I don't know whether it was the original contract or not.

Q. Well, now, that is important, isn't it? A. I did not know that it was. It may be. I don't think so.

Q. You wouldn't think that an original document would be important to know whether you were looking at something which was the correct thing or not? A. Oh, I am sure that they were correct.

Q. You are sure they were correct. Whatever you saw you are sure was correct? A. Yes.

Q. Where did you get that? A. I got it from the Prison Department.

By the Chairman:

Q. Mr. Blake, was Mr. Francisco a builder? A. No, he wasn't; an asbestos man; an expert on asbestos.

Q. Was Mr. Burney a builder? A. Oh, yes.

Q. He had constructed buildings of this character? A. Well, he was a builder and was an expert employed by the New York Central Railroad for construction.

Q. For construction of buildings? A. I don't know, Mr. Chairman.

Q. As far as you can learn? A. He was familiar with materials.

Q. That is the idea, Mr. Blake. Now, you stated before that you wanted to assist us in clearing up this prison ring. A. Yes.

Q. Now, we want to do that, and we want to get every bit of information we can, because we have had the experience of investigating before we proceed. Now, so as to get it clear in the minds of everybody, you selected Mr. Burney as an expert. Do you know, of your own knowledge, any construction that he himself, as a contractor, has performed. A. I don't know of a single building he ever put up.

Q. You do not know? A. No.

Q. Did he ever tell you that he had constructed any buildings? A. Yes. Yes, he told me so.

Q. And from the knowledge that you acquired from him you felt justified in making the statement that there was $500,000 of graft paid? A. From him and others.

Q. From him and others? A. Yes.

Q. What others, Mr. Leeds, is he an expert builder? A. Mr. Leeds is the man who is familiar with materials or pipes and stone and steel structural work.

Q. Did he ever do the physical work? A. No, not that I know of.

Q. He never had a contract? A. I don't think so.

Q. He never entered competition for a contract? A. Not that I know of.

Q. That is all. A. Before endeavoring to discredit my reports on this matter, why doesn't the committee go to Great Meadow and go over the ground? I am going to put that into the grand jury of Washington county, am going to have it investigated by the grand jury; I have got this matter into the hands of two grand juries, one in Westchester county and one in Cayuga county and I am getting around to Washington. You will either have to duplicate the work of the grand jury or they will duplicate yours unless you go around and make the investigation yourself.

Q. Now, Mr. Blake, that is very kind, and that is what we propose to do, but before we proceed we want to get from you who were the men that were experts and the methods by which you arrived —. A. (Interrupting) Yes.

Q. So that when we make our presentation that we will be clear; and we feel that you having already performed a certain part of the work can give us the information we desire before a legislative committee can proceed? A. Now, then, you are not trying to discredit my work here; you are trying to get my assistance?

Q. Yes, sir. We want to get your foundation, because the papers published there was $500,000 in graft.

Q. And we want to see what you base that on before we go on. A. I will be glad to go with you if you will permit me to assist you in any way possible.

By Mr. Richards:

Q. Now, to return to this contract matter, Mr. Blake; you say that you are sure you saw an authentic copy of the original of this contract? A. I think so.

Q. Now, let us get down to whether you did or you did not. A. You can't get any further than that.

Q. As far as you can get. A. That is as far as I can get.

Q. Then you are willing to say that you filed in this case and permitted to be spread broadcast a statement based upon a statement with regard to the contents of a contract that you are not sure that you saw, is that right? A. I didn't say that.

Q. Well, now, are you sure that you saw it or are you not? A. I am quite sure that I saw the original contract and that the papers I saw were accurate.

Q. And where did you see those? I am trying to get it again. Where did you see them, where were they? A. We had some of those contracts up at the prison and we had some of those papers at my office in State street. I think we carried them from one place to another and studied them in both places.

By the Chairman:

Q. I may help you, Mr. Blake. There is an original contract; did you have copies of the specification or the original contract? A. We sent to the Prison Department and got those specifications and contract and they were brought down to the office and there studied and gone through, and I don't know really —

Q. — (Interrupting) Now, so we will understand. There is a copy of the original — I don't know whether the original is kept with the Comptroller — he has one copy, and the department in which a contract is made I think sends the original to the Comptroller. Is that your custom, Mr. Wood? Is that a custom of the department, to send the original to the Comptroller?

Mr. Wood.— No, the original contract is filed in our office.

Q. Then you didn't get the original copy of the contract from the Comptroller's office? A. The copy that I got was from the superintendent's office.

Q. You got a copy of it, so that we will be clear on it. A. I presume that is right.

Q. You didn't go to the Comptroller's office to get the original copy as signed by the contractor and the superintendent and the authorized officials from the superintendent — you got it from the superintendent of prisons? A. Yes.

Q. Then you did not have the original copy? A. Well, I will take your word for it.

Q. If you didn't get it from the comptroller you did not get the original copy? A. I think not; I think it came from the superintendent's office.

The Chairman.— Just so we will get that clear. All right, Mr. Richards.

By Mr. Richards:

Q. Now, I show you what purports to be an original contract between Joseph F. Scott, superintendent of prisons and A. Pasquini, of 1123 Broadway, New York city. (Counsel passes

papers to witness). Those are the papers referred to in your report, are they not, Mr. Blake? A. Yes, sir.

Q. You have got a copy of it here between Joseph F. Scott, you say, superintendent of prisons, and A. Pasquini of 1123 Broadway? A. Yes.

The Chairman.— Let me see before you proceed. Is this the original copy?

Mr. Richards.— That is from the comptroller's office.

The Chairman.— That is the original copy, isn't it?

Mr. Richards.— Yes.

Q. And just after your examination I want to know whether you ever saw that contract or a duplicate of that contract before? A. Yes, I think I saw the same thing.

Q. Well, now, are you sure? A. Practically, sure. I think that I saw that.

Q. Well, you mean to say that you make a statement attempting to discredit a public official on something that you are only practically sure of. A. I think I have answered your question.

Q. I want to have you answer it again if you will. A. Yes. I don't want to say yes to the point of endeavoring to discredit any public official. I believe that the copy of the contract and specifications I had were an accurate copy.

Q. I am asking you again whether you are willing and were willing in your report to make a statement with regard to graft for the purpose or with the result that it discredited a State official on something that you were practically sure of but not sure of? A. If I was sure of it at the time I am sure that it was an accurate set of specifications; I am sure of that.

Q. And you haven't any question but what this is an original contract. Just look at it. I want to make sure of this. (Witness examines paper.) A. I will take your word for it.

Q. Oh, I prefer to have you be sure now. A. (After examining.) I am not sure if it is the original because I don't know whether it is or not.

Q. You were investigating a prison's contracts. You ought to be able to tell an original. A. I think that is an original.

Q. Look at it and tell us.

The Chairman.— Mr. Blake, if you will take the part where the contract is signed by all the parties, you can then tell.

Q. Just make sure. Why not look at it. A. I see that it is signed on the last page here. (Witness examines paper.) I see that the signatures are all there.

Q. And that is the contract that is referred to in your report? A. Yes, I guess that was the contract.

Q. We want to make sure before I ask you any more questions. That is the original contract, that is an original contract, and signed between Superintendent Scott and Pasquini, and that is the contract that you referred to in your report, isn't it? A. (Witness examines.) Yes.

Q. Now, Mr. Blake —

The Chairman: (Interrupting) Mr. Richards, is that contract approved by the Comptroller in your possession now?

Mr. Richards.— Yes, sir. Approved by the Attorney-General and by the State Architect.

The Chairman.— Yes.

Q. Now, you have read of course with care the report of Mr. Francisco on the subject of the specifications, and you saw it yourself? A. Yes.

Q. And you vouch for the correctness of what he saw and of his conclusions because you verified them? A. I take his sworn statement?

Q. No, but you yourself saw these specifications? A. Yes.

Q. And saw this contract? A. Yes.

Q. And saw that this contract called for 85 per cent magnesia, grade A? A. (No answer.)

Q. Look at the report. (Counsel passes paper to witness.) I want to know whether you are prepared to stand by the report without looking at this contract. A. That is true I believe. Mr. Francisco made the report. I took his word and sworn statement.

Q. But it was your business to give Mr. Francisco the proper documents on which he could make a report, and if you gave him documents which were not correct, why, then you are responsible for the incorrectness of your report? A. I presume I will have to stand for it.

Q. Yes. I ask you to look at the contract, page 58, referring to the magnesia which is referred to in this report. A. (Witness examines paper.)

Q. Now, while you are looking at it or before you look at it, let me read what Mr. Francisco says:

"The material used on the high pressure pipe lines as called for in article 634 should be of 85 per cent magnesia, Grade A; the Grade furnished is 35 per cent magnesia, Grade B, and some of lower grade."

Now I want to know what the contract calls for there, whether it is grade A or grade B. A. (Reading) "It shall be grade B magnesia as specified; there is another — there is some other section in there that he was referring to.

Q. That refers to the material for this work, that it shall be grade B, magnesia covering. Now, I want to ask you again whether you still stand responsible for Mr. Francisco's statement, and for having the — giving him the specifications called for in this contract? A. I will have to stand for Mr. Francisco's statement.

Q. Well, will you stand for yourself that you gave him the correct contract? A. I believe that he had the correct contract.

Q. Did you give it to him? A. I don't know whether I did or not. I don't know whether I took that and practically handed him the contract. He had been there. I presume that he —

Q. (Interrupting). And you are not sure, although you are willing to attempt to discredit the prison management on that proposition? A. Well, I will discredit the prison management on the entire proposition without detail.

Q. Of course that was your intention, wasn't it? A. No. My intention was to tell the truth.

Q. Well, was this telling the truth — A. (Interrupting) I won't answer your question at all specifically. I will say that the general facts presented in my report were absolutely accurate. We may have made a mistake in the grades. It may have been grade A or it may have been grade B. I don't know about that, but I don't consider that of sufficient importance to discredit my entire report. I will have to look over the specifications.

Q. You are going to have a chance to look over it right now. A. I am going to look over those, all I have and see whether they are the same or not. I presume they were.

Q. Now, you stood sponsor for another charge that Mr. Francisco made with regard to another specification. I will read it to you:

"Article 642 of specifications calls for the coverings on heaters, tanks and separators to be at least 2 inches in thickness and

to be applied in three coats, with a fine plaster finish of at least one-eighth inch in thickness. The covering given does not exceed one and one-half inch in thickness and has no plaster finish."

I ask you to look at 642 and see what it says.

"All coverings shall be as specified in method No. 2."

Now, read Method No. 2 as to the thickness. A. (Witness reads.)

Q. Read it. A. (Witness reads.)

Q. Shall I read it for you? A. No, I have read it.

Q. "Apply plaster covering"— please take this down, Mr. Stenographer,— "Method No. 2 prepared for the contract — apply plastic covering to a thickness three-quarters of an inch over the outermost projections of the piece of apparatus, filling completely all interstices. Over this install galvanized iron wire netting with two inch mesh. Over this install another layer of plaster covering, three-quarters of an inch thick and over the whole a coat of hard finish plaster one-eighth of an inch thick. Plastic coverings shall be put on in meshes not exceeding three-eighths of an inch thick, and each layer allowed to dry thoroughly before the succeeding one is applied. Round off all edges around openings." Is there anything about 3-inch mesh in that contract or 3-inch covering? A. (No answer.)

Q. Is there? A. I haven't noticed it.

Q. You couldn't find it? A. I didn't find it.

Q. Well, look again. A. I have answered your question, I have said I haven't found it.

Q. Well then, how did you or Mr. Francisco come to report such a state of affairs in the presence of that contract? A. Well, I trusted to Mr. Francisco, who was supposed to be an expert so far as this covering was concerned. He made a sworn statement. I took his sworn statement.

Q. But you said when I started to examine you about this whole matter that you furnished Mr. Francisco with these specifications and contract. A. I said I would have to stand for his work.

Q. Wait a minute, Mr. Blake. Didn't you say absolutely and clearly that you furnished Mr. Francisco with the contract and specifications on which he based his report? A. (No answer.)

Q. Didn't you say that? A. If I said it, why it is on the record.

Q. Well, then, I will ask you now whether you don't remember saying it? A. I don't quite understand the way you put it. The specifications and contracts were there, brought up from my office,

and he examined them there, so I suppose I furnished them to him, yes.

Q. Well, then, you did not furnish the right ones to him, did you? A. Unless he has made a mistake.

Q. No, but you say it was your mistake? A. Yes, I will have to stand for his mistakes.

Q. It was your mistake. Now, you even went so far as to vouch for this statement, with regard to the amount of graft in proportion that you found or Mr. Francisco found on 2,800 feet of pipe covering, which was based upon this specification which you handed him, wasn't it? A. Yes.

Q. Now, do you stand for that and for Mr. Francisco's conclusion there? A. I guess I will have to be responsible; if he has made any misstatements I will have to be responsible.

Q. This is what Mr. Francisco says with regard to that:

"After measuring over 2,800 feet of pipe covering I wish to state that if this work was paid for as per the grade covered by the specifications of the contract there was a loss to the State in first cost of at least $500 on this pipe covering job."

You understand what his conclusion is, that he has measured a certain amount of pipe and says that by reason of that whole length of pipe there will be $500 lost. Now I ask you to look at this contract and tell me if it wasn't done for a lump sum, the whole thing. A. (Witness examines paper) I think that is true.

Q. Then that is incorrect. Now I will ask you —

The Chairman (interrupting).— Did you answer, Mr. Blake?

The Witness.— Yes.

Mr. Richards.— That is incorrect, he said.

The Witness.— Yes.

Q. Now, then, I will ask you to look at the whole of Mr. Francisco's report. Read it through and tell us what you will stand for now. A. (Witness examines paper) I will stand for everything in the report, except those things which you can prove are not true. I will have to go over this thing again when I leave here. Up to the present moment I supposed every statement of fact made was true. I am taking your copy of the specifications and your assumptions.

Q. Well, all that there is in Mr. Francisco's report refers to the four different items of the specifications in the contract that you

have admitted to be wrong. Will you tell me what there is left of Mr. Francisco's report? A. I am going over it again myself.

Q. You are going over it again? A. I will see. Perhaps he is not so wrong as you imagine.

Q. Were you here when this thing was sent out broadcast and put in the press? A. Was I here?

Q. Yes, in Albany? A. I was either in Albany or pursuing my investigation some place else. I don't know whether I was here or not.

Q. It appears that some of these items that Mr. Francisco referred to are figured in this $500,000 worth of graft that you say was in the $1,000,000, 50 per cent. of it graft and carelessness. A. No, I don't think so.

Q. This was exclusive of it? A. This was exclusive of it, yes.

Q. And you still say your estimate of $500,000 was mainly based upon Francisco's report? A. No, I said it was one of those.

Q. Well, how large a part in the $500,000 would the Francisco report carry? A. Well, you have his own figures — about $500 he estimates.

The Chairman.— Mr. Richards, I want to ask you a question. Did you say it was a lump sum.

Mr. Richards.— A lump sum for the pipe, yes. And he figures out that by measuring some of the pipe he could figure out what the loss was.

The Chairman.— Was there a competition held for this contract?

Mr. Richards.— Yes, sir.

By the Chairman:

Q. Do you know, Mr. Blake, of your own knowledge, was this contract awarded to the lowest bidder? A. I don't know that. You know —

Q. (Interrupting) You did not examine that? A. I would like to say this to the committee. I am not through with my work. I am still on the investigation. These reports that I have made are all preliminary.

Q. I understand, Mr. Blake, that this thing was brought to the notice of the legislature, the report made by you in which it was stated, and also publicly to every paper in this state, that

you find there is $500,000 worth of graft in $1,000,000 worth of work. That is, 100 per cent. of graft. Did you inquire before you made this statement whether these contracts were let by public letting? A. I don't remember just precisely what I learned at that time because I have done a great deal of work since. I have got a lot of records and memoranda I think around some place, but, as I say, this work is not finished. I believe every word in that statement is true except that Mr. Francisco's statement, if he has made a mistake, they are wrong.

Q. You concede they are wrong now? A. I don't concede that now. I say it may be wrong.

Q. Then you had the original specifications and contract which is subpoenaed here, which is a public record, a public document, in the comptroller's office? A. I am willing to accept that.

Q. You will accept that. Would you consider where a letting is had by a department and the contract is awarded to the lowest bidder, that any profit he would make through his own efforts and energies, would you consider that graft? A. I would not consider it unless he was favored by some persons in order that he might have the contract.

Q. That don't answer my question. You are as intelligent and more so probably than I am. If the law requires that for so many weeks a contract shall be advertised in some public papers — you understand that procedure, a day and time is set for the reception of bids, you understand that. After the bids are opened and it is found that John Jones was the lowest competitor or bidder for the work, the officials who are authorized to award that work to him at that fixed figure. Do you consider that every dollar of profit he makes in that work is graft, or do you consider when they award that contract to the lowest bidder, that that is graft or a preference? A. I have heard of cases where men have been permitted to bid low and then favored during the progress of the work.

Q. By way of favoritism when work is being carried on? A. In fact this man has been favored here. It is admitted in Mr. Ware's letter, Franklin B. Ware, architect. Read his letter to Mr. Susdorf, which I furnished.

Q. We will get to that afterwards. A. I wish you would go over that first and then come back and you would know the situation.

Q. No, we can get our information from your report. I want to ask you if you consider where the lowest bidder is awarded a

contract, if every dollar of profit he makes is graft. A. Why, if it is being done honestly he is entitled to it.

Q. He is entitled to it. A. All things being equal and being honest, and the bids fair, and the specifications lived up to, he is entitled to it, no matter how much it is.

Q. Now let me ask so I can make it more clear. The total amount of money — Mr. Richards, you have got the figures there. What was the total amount of money for these contracts?

Mr. Richards.— You mean for this construction of the prison?

The Chairman.— Anything expended for this prison.

Mr. Richards.— $955,000 for the whole construction.

The Chairman.— $955,000 for the whole construction?

Mr. Richards.— Yes.

Q. Then we will understand, Mr. Blake, from your report, that of that $955,000 that $500 of that was graft. A. I don't accept those figures because I have a statement here from the clerk in the Comptroller's office which says that the expenditure is $1,534,000.

Mr. Richards.— Make it $50,000 more and call it a million dollars.

Q. What I want to get clear before the Committee, you have made a report, Mr. Blake, in which you charge — we want to get Mr. Sussdorf and Mr. Ware if we can — but in your report you said specifically to the Legislature that $500,000 out of $1,000,000 was graft. A. Yes, I think I can prove it.

Q. You say that. A. Yes.

The Chairman.—All right. That is all.

By Mr. Richards:

Q. Now, Mr. Blake, just one more question. You said that you were not aware of any kind of competition for this work that Mr. Pasquini had. You don't know whether it was in competition. A. No, I don't remember.

Q. I ask you to look at the original contract and see whether it doesn't show that Pasquini — A. (Interrupting) Yes, there was.

Q. And that there were six bidders and that Pasquini was the lowest? A. Yes, that was a competition, I remember.

Q. Now, isn't it a fact, Mr. Blake, that in your looking over these contracts and your examination of them that you found that the State Architect drew the contract and specifications and that no payment could be made or was made except by the O. K. of the State Architect? A. I know that.

Q. Now, who approved the bill, Mr. Sussdorf, wasn't it in the bills of all the expenditures under this contract? A. Some representative of the State Architect.

Q. Well, did you look to see? A. No.

Q. You wouldn't say that it wasn't Mr. Sussdorf? A. No.

Q. Isn't Mr. Sussdorf the man that Mr. Ware wrote to? A. Yes.

Mr. Richards.— That is all, just for the present; I mean so that we can take an adjournment.

The Chairman.— I think we will take an adjournment, or a recess. Mr. Richards, next week, as I understand, there will be a proceeding in the Senate chamber which will need the members of the Legislature to attend. Now, what day the following week would suit you to begin, Mr. Richards?

Mr. Richards.— I think it would be well to begin early the following week. I should say anyway on the first day of the week following, if next week is to be taken out.

The Chairman.— Tuesday?

Mr. Richards.— Monday or Tuesday, whichever the chairman will fix, we will be ready. Tuesday?

The Witness.— I have an engagement with the district attorney of Cayuga county for Tuesday. I suppose I will have to break it.

Mr. Richards.— You mean a week from Tuesday?

The Witness.— No, it is next Tuesday. It might interest the committee to know that I am putting the report in the hands of the Cayuga County Grand Jury. And every grand jury in the counties where the prisons are located are going to investigate my report, as I am being investigated now by the grand jury of Westchester county.

The Chairman.— Well, then we will go on Tuesday at 10:30, in this chamber, that is a week from Tuesday, July 15, 1913. The session will adjourn.

The Witness.— Do you want me here then?

The Chairman.— Yes, if you please, and all other witnesses who are subpoenaed.

Whereupon, at 3:10 P. M., the hearing was adjourned to Tuesday, July 15, 1913, at 10:30 A. M.

THE CAPITOL, ALBANY, N. Y.,

July 15, 1913.

Pursuant to adjournment the Committee met at 10:30 A. M.

Present:

For the Senate:

Hon. James J. Frawley, *Chairman,*
Hon. Samuel J. Ramsperger.

For the Assembly:

Hon. Wilson R. Yard,
Hon. Myron Smith.

Appearances:

Eugene Lamb Richards, Esq., Counsel to the Committee.
Matthew T. Horgan, Esq., Secretary to the Committee.

The Chairman.— We are ready to proceed, Mr. Richards.

Mr. Richards.— Mr. Chairman, the Secretary to the Governor is here with certain papers, pursuant to the request of the Committee; and not all the papers which we have called for have been produced and I desire to examine him briefly on the subject of the whereabouts of those papers. Mr. Platt, will you take the stand?

Mr. Taylor.— Mr. Chairman, before the Committee proceeds with its business this morning, I should like to make a request. By direction of the Governor I desire respectfully to request of this Committee its courtesy in permitting me to appear as counsel for the witnesses who may appear before the Committee, who are employees or subordinates of the executive office, or who have been employed as Special Commissioners by the Governor, for the purpose of acting as their counsel.

The Chairman.— Is that your request?

Mr. Taylor.— Yes.

The Chairman.— It is most respectfully denied.

Mr. Taylor.— I would like an exception noted on the minutes.

Chester A. Platt, recalled:

By Mr. Richards:

Q. Mr. Platt, you have been —

The Chairman.— This is an inquiry by the Legislature, Mr. Taylor, and we are endeavoring to get the facts in the reports made and submitted by the Governor to the Legislature; and as a man's liberty is not in jeopardy, we do not feel that he needs any counsel. If there are any questions asked him outside of the purposes of the inquiry, he has a right to deny answering them, but while pertaining to the inquiry of the Legislature, I do not think it is necessary for him to have any attorney here; and for those reasons we deny you the right to ask any questions.

Proceed, Mr. Richards.

Q. Mr. Platt, you have been sworn at the last hearing of this Committee? A. Yes.

Q. You were requested by the Committee in a letter addressed to the Governor to produce certain reports with reference to the investigation by George W. Blake of the various prisons in the State, were you not? A. I never saw any such letter.

Q. Well, pursuant to some letter you have produced certain documents here? A. I have produced those at the request of the Governor.

Q. Yes. And you have produced certain papers that you have here and for which you ask the Committee to give you a receipt; and I ask whether or not that paper comprises all the papers that you have produced at the request of the Governor. (Handing paper to witness.) A. Yes, I believe it does.

Mr. Richards.— I ask to have that marked in evidence.

(The paper was received in evidence and marked Exhibit No. 10 of this date.)

Q. You have produced various original reports, as appears by Exhibit 10 of this date, on the various prisons in the State, but

you have not produced the original report on Great Meadow Prison; is that right? A. Yes, I think that is right.

Q. Have you made a search for the original report on Great Meadow Prison? A. I have not, no, sir.

Q. From whom did you get these papers that you have produced? A. Why, from the Governor.

Q. And were you informed when you got those papers that that was all that they had? A. I understand that was all they could find, that were mentioned.

Q. And then you cannot — as representing the Governor, and coming from the office under those circumstances, you cannot produce the original report, or don't produce the original report on Great Meadow Prison. Is that right? A. Yes, sir, that is right.

Q. Furthermore, you were requested to produce a certain original letter dated March 14, 1913, referring to the appointment of George W. Blake to serve without compensation. Have you produced that original letter? A. No, sir.

Q. Have you made a search for that original letter? A. No. I have not made any great search for it. I understand that Mr. Murlin looked for it at the request of the Governor.

Q. Did you understand that Mr. Murlin looked for this original Great Meadow report that we are looking for? A. Yes. I think he did.

Q. What did Mr. Murlin report to you on that? A. That he couldn't find it; not able to find it.

Q. So you produce an original report on Sing Sing Prison, original report on Clinton Prison, the original supplemental report on Great Meadow Prison, but you have not produced the original report on Great Meadow Prison itself. Is that right? A. I think it is, yes, sir.

Mr. Richards.— Now, Mr. Chairman, I think that some direction should be made by the Committee, or some further request for these original papers, which are the two particular papers that are called for by this letter; that is, the original letter of March 14, 1913, which the testimony of the last hearing shows was taken back to the Governor's office, and the original report on Great Meadow prison from Mr. Blake.

By the Chairman:

Q. Mr. Platt, would you make a further search and see if you could find that paper? A. I will report to the Governor that I

have been requested. I think he is the person that must give me directions to produce that or to find it.

Q. Would you make that request? A. I will be glad to advise with the Governor about it, making further investigations. I understand that Mr. Merlin has made a search for that and was unable to find it; that he had looked for it at the Governor's request.

Q. It is not customary to lose original documents, is it? A. Why, no. We have seldom lost any documents at our office. but it isn't always easy to find things that are there somewheres. There are a great many documents there.

Q. Would you advise the Governor and report to the Committee as to what has become of these original documents? A. I will be pleased to.

Mr. Richards.— One other question, Mr. Platt.

By Mr. Richards:

Q. Attached to the copy of the original report on Great Meadow prison are two affidavits, one by a Mr. Francisco, and another by Mr. Burney, and neither of those have been produced. A. May I refer to that list of documents there, again?

Q. Certainly, sir. (Handing document to witness.) A. There are fourteen documents listed here, and of course I may have been mistaken in my replies as to just what was in the envelope. (After examining.) No. I was correct. There is only a printed copy of the report on Great Meadow prison, and there is the testimony taken at the Great Meadow prison investigation, beginning April 4, and the affidavits that you have mentioned are not among the documents, although copies of those affidavits are in the pamphlet containing the printed copy of the report on Great Meadow.

By the Chairman:

Q. Would you try and find those two papers also, Mr. Platt? A. Yes, sir, I will do so.

Mr. Richards.— That is all, then, from Mr. Platt. Thank you.

(Witness excused.)

The Chairman.— Mr. Richards, I understand there are some gentlemen from out of town whom you have subpoenaed here. They would like to get through, if you would put them on the stand and finish them.

Mr. Richards.— Is the Comptroller's office representative here?

Mr. Wood.— Yes, sir.

Mr. Richards.— Have you got that Pasquini contract?

Mr. Wood.—There it is over there. Mr. Horgan has it.

Mr. Richards.— I will call Mr. Francisco.

J. P. Francisco was called as a witness and being duly sworn, testified as follows:

By the Chairman:

Q. What is your full name? A. J. P. Francisco.

Q. Where do you reside? A. Rome, N. Y., 620 Beecham ave.

By Mr. Richards:

Q. 620 Beecham avenue, Rome, N. Y.? A. That is it.

Q. Now, Mr. Francisco, what is your business or occupation? A. General asbestos business, pipe covering.

Q. And where is your place of business? A. In Rome.

Q. How long have you been in the business? A. Twelve years.

Q. Any other business that you have been in before that? A. No, not particularly, no.

Q. How old are you, Mr. Francisco? A. Thirty-seven years on the 17th of June.

Q. And you were in the pipe covering and asbestos business when you were 25? A. Yes.

Q. Did you have any partners or anybody connected with you in your business? A. I have at different times; principally my father, though.

Q. You made an examination of the pipe covering and asbestos in Great Meadow Prison, did you not? A. I did, sir.

Q. And you made it at the request of George W. Blake? A. Yes, sir.

Q. How did you come to meet Mr. Blake? A. I had an introduction through a friend of mine down in Utica.

Q. Who is he? A. His name is Dempsey.

Q. What is his first name? A. James Dempsey.

Q. James Dempsey of Utica? A. No, Clinton, N. Y.

Q. Clinton? A. But it was at Utica, N. Y.

Q. I beg your pardon? A. It was at Utica, N. Y., I met Mr. Blake first, at Baggs' Hotel.

Q. And Mr. Dempsey comes from Clinton, N. Y.? A. Yes, sir.

Q. And did he bring you to Mr. Blake? A. Why, yes, in a way, and in a way, no; yes.

Q. I want to get your own statement of how you came to get in connection with Mr. Blake on this proceeding? A. We were talking over one thing and another, about the work in the State, etc., you know, and Mr. Dempsey gave me an introduction to Mr. Blake.

Q. You were talking about the work in one way or another? A. Yes.

Q. Were you interested in any way in trying to get this contract? A. Not this contract; no, sir.

Q. In some other contract? A. In any contract, yes.

Q. Did you come to Mr. Blake and tell him that you had important information on the subject of this — A. Oh, no.

Q. Then Mr. Dempsey brought you to Mr. Blake? A. Yes, I guess that is as near as you can get.

Q. As a result of this little talk you had with your friend Dempsey? A. Yes, sure.

Q. What was the date of this meeting with Mr. Blake? A. I think it was in the latter part of April.

Q. The latter part of April? A. I should say so. My note books that I had those things in I left with the gentleman at Great Meadow Prison.

Q. Who was the gentleman? A. Well, I left it. We were all in the room over there and I neglected to pick it up; Mr. Leeds, Mr. Hunter and so afterwards —

Q. You were all together? A. Yes, all together. It was simply a little stenographer's note book, such as they use.

Q. You think it was the latter part of April? A. I think so. Mr. Blake could probably tell you that.

Q. Look at a copy of your affidavit and see whether you swore to the affidavit (handing affidavit to witness). A. (After examining it) It must have been in March, then; I guess it must have been in March.

Q. And you swore to this affidavit on the 5th day of April? A. Yes, sir.

Q. When did you go to Great Meadow? A. Well, if I — I went there — it must have been the 31st of April. I was there about a day and a half.

Q. You were there a day and a half making this inspection?

A. Yes. We arrived there at noon one day, something like noon one day, and we left the next afternoon, late in the afternoon, so I got back to Rome at midnight.

Q. You were there a day? A. Yes.

Q. And part of the night? A. Yes.

Q. Did you work in the evening? A. I worked on some of the notes I had, yes.

Q. Did you have the specifications of this work? A. Well, I had the specifications they handed me. I could not say it was a true specification, because I don't know that. I had the specifications that they handed me, yes.

Q. I call your attention to your statement in the affidavit; the sworn statement as to the standard specifications under the contract. Did you make that statement (showing same to witness)? A. I did.

Q. You did not know it was under the contract when you made it, did you? A. Yes, I knew in a way. I looked them over; what I wanted to find in the specifications was the grade that was to be applied.

Q. No, but the question was, what were to be the specifications under the contract? A. I believe I will stand by that.

Q. You will stand by that? A. I think so, yes.

Q. That you examined the specifications under the contract? A. Yes, I think I will stand by that. If it is wrong, I will —

Q. Can't you do better than that, can't you say that you are sure of it, not that you will stand by it? A. No. I will say I will stand by it. That is sufficient, I think.

There is one correction I will have to make, 620 Beecham avenue. 725 North Jay street is where I now live.

Q. I show you the original contract between Pasquini and the Superintendent of Prisons. (Handing contract to witness). And ask you to point out first, the specification which you say was the specification under the contract "for high pressure lines for the magnesia." A. (Witness examines contract).

Q. That is the original contract, isn't it? A. Yes, but this says here the material, the quality of material for this work shall be grade B magnesia covering specified in 635.

Q. 635. Right. A. Yes.

Q. That is all that contract calls for? A. Yes, but —

Q. Now, look at it and see — A. Now, wait just a second.

Q. Yes. All the time you want. A. Have you got the specifications of the Hudson River Valley Company here?

Q. No. I am not interested in that. I am interested in the Pasquini contract, of which you said the standard specifications were so and so, and you have got it in your hand. A. Would you repeat your question again, please?

Mr. Richards.— Read the question.

(The question was read by the stenographer as follows: "I show you the original contract between Pasquini and the Superintendent of Prisons, and ask you to point out first the specification which you say was the specification under the contract 'for high pressure lines for the magnesia.')

The Witness.— The word "high pressure" is not here at all. Where will I find 635?

Q. Right at the back (indicating). There you are now. Now read 635? A. (Reading). "Grade B. Magnesia covering. This material shall consist of 35 per centum by weight of pure carbonate of magnesia, 15 per centum by weight of an inert fireproof bonding fibre, and the balance of an inert fireproof material. In other respects the covering shall be as specified for grade 'A.' Whenever such covering is installed on the piping, the fittings, including valve bodies and flange unions, shall be covered with magnesia plastic of the same grade as the covering."

Q. Then what was called for was grade B, wasn't it? A. Yes, I guess it was.

Q. Is there any doubt about it? A. No. There is no doubt whatever. There is no doubt. They must have slipped one over on them.

Q. What is that? A. On high pressure lines.

Q. You slipped one over? A. No, I didn't. It was my mistake. I readily admit it; I readily admit it.

Q. I call your attention to— A. I say they slipped one on the architect.

Q. Somebody slipped one on the architect? A. For high pressure lines Grade B covering.

Q. You mean to say that because the grade of the covering was called B that some one slipped one on the architect? A. I should say so.

Q. That is for the architect to look out for? A. That is for the architect to look out for.

Q. That is his business? A. Yes.

Q. Somebody slipped something on you. What did they slip on you? A. They didn't slip nothing on me.

Q. Didn't they slip a wrong specification on you? A. I would not like to say as to that.

Q. You say in that statement upon that point, "The material used upon the high pressure pipe lines as called for in Article 634 should be of 85 per cent. magnesia." Was that true? A. No, it was not.

Q. Then who slipped something on you? A. Well, is it possible — if you will show me the Hudson River Valley contract I will tell you whether they slipped anything over on me.

Q. This is your sworn statement? A. Yes, sir.

Q. (Reading) "I have compared the material and labor with the standard demanded under Section 46 of standard specifications, which form a part of the contract"— A. Yes, sir.

Q. — "for this work entered into on the 3rd day of November, 1911, between Joseph W. Scott, Superintendent of Prisons and A. Pasquini"? A. Yes.

Q. Now, did you do that? Did you examine any such contract? A. I examined some contract. I guess it was that one.

Q. Are you accustomed to making an affidavit — A. No.

Q. That you examined something when you didn't? A. Why, I examined it. It was all done. The report was written out in quite a little of a hurry along in the afternoon.

Q. The whole thing was a little of a hurry? A. No. I made the examination, and saw that the covering was not in —

Q. Your examination of something that was slipped over on you was done in a hurry? A. It might have been, yes.

Q. I ask you again who was it that slipped something over on you? A. I think may be it was purely my own fault.

Q. Where did you get this standard specification which you say called for certain things in the contract? A. Mr. Keller.

Q. Mr. Who? A. Is that his name?

Q. I want you to tell me? A. Mr. Keller, Mr. Blake's stenographer.

Q. Mr. Weller, W-e-l-l-e-r? A. Yes, Weller, that is his name. I only met him twice. Mr. Weller.

Q. You got whatever you handled — A. Yes, sir, sure.

Q. From Mr. Weller? A. Yes.

Q. I want to have you look at the standard specifications for pipe covering? A. Yes, sir. What number is it?

Q. 641, which you reported on? A. 640, it is listed here.

They made a mistake when they put it down. The painting is 641.

Q. Look at your specifications, not at something that is at the back? A. All right, 641. It is the same here in the specifications.

Q. What does it say? A. It says all covering shall be painted as specified.

Q. Where is that? A. That is 641.

Q. There is no specification which says at least 1 per cent. of oil paint on all pipe coverings? A. No, not there.

Q. Nor in the specification in that contract there is no such requirement? A. (Reading) "The rest of the covering shall be coated with glue sizing and painted with one coat of white lead and linseed oil paint. Covering shall not be painted until it has been inspected and accepted."

Q. So there was nothing in there which called for this provision which you swore to, that the "standard specifications under the contract calls for at least one per cent. of oil paint on all paint coverings." A. They put that in one per cent., they put it in wrong. It says right here, it says that one of the coats — there are to be three coats — one of the coats is to be painted with white lead and linseed oil paint.

Q. All right. A. So that is there.

Q. Is that the specification which you say is there? A. Yes, sir.

Q. Look and see whether or not that specification No. 642 — A. 642.

Q. See if there is any 642 in the contract, just turn there? A. Boiler covering, listed under boiler and heater covering.

Q. What is called for under that, 641 or 642? A. That calls for 642, boiler coverings.

Q. Under the contract? A. Yes, under the contract and under the specifications. There is 642, "covering boilers, heaters, tanks, etc.," 642, boilers, heaters and tanks, up here (indicating).

Q. Covering tanks and heaters as specified in method No. 2. Now read method No. 2. A. This don't look like the specification I looked over, Mr. Richards, because I marked a good many of them and I don't see any marks here.

Q. You evidently had something handed to you that wasn't right? A. I wouldn't say that, you know.

Q. I don't mean to charge anything, but somebody handed you something that wasn't right? A. Do you want me to read method 2?

Q. Yes, read it. A. (reading) "Method No. 2.— Apply plastic covering to a thickness three-quarter inch over the outermost projections of the piece of apparatus, filling completely all interstices. Over this install galvanized iron wire netting with two-inch mesh. Over this install another layer of plastic covering three-quarter inch thick, and over the whole a coat of hard finish plaster one-eighth inch thick. Plastic coverings shall be put on in layers not exceeding three-eighths inch thick, and each layer allowed to dry thoroughly before the succeeding one is applied. Round off all edges around openings."

Q. This what you said it called for. (Reading) "Article 642 of Specifications calls for the covering on heaters, tanks and separators to be at least two inches in thickness and to be applied in three coats, with a fine plaster finish of at least one-eighth inch in thickness." That was not so. A. I was calling it that way. One coat is to be three-quarters of an inch, the last coat is to be one-eighth of an inch, and the other coat is to be three-eighths of an inch. See how you figure it. Read it and see.

Q. "Article 642 of the specifications calls for the coverings on heaters, tanks and separators to be at least two inches in thickness and to be applied in three coats,"— That is method 1. A. That is method 2.

Q. No, the one I have read. A. But you told me to refer to No. 2.

Q. I want to have you read Method No. 1. A. (reading) Method No. 1. Fill all the interstices with plastic covering. Lay block covering not less than one and three-eighth inches thick over the entire piece of apparatus. Cut this neatly to fit around all openings and secure it firmly in place by winding No. 10 galvanized iron wire. Install over this a coat of plastic covering one-quarter inch thick, filling all interstices, and after this is dried, install galvanized iron wire netting with two-inch mesh over the whole. Install over this another coat of plastic covering one-quarter inch thick, and, after this has dried, cover the whole with a coat of hard finished plaster one-eighth inch thick. Round off all edges around openings."

Q. With two-inch mesh over the whole? A. Two-inch mesh over the whole.

Q. That was not the method that was really in that contract, was it? A. No.

Q. That was Method No. 2. A. Yes.

Q. And you reported on Method No. 1? A. I gave it to him No. 2, sir.

Q. Yes. A. In other words, it makes a covering of two inches, a little better in thickness, that is the outside plastic finished coat, the hard finished coat is put on, which was not on there.

By the Chairman:

Q. What was the thickness there? A. I think the most I found was about an inch, an inch and a half, possibly.

Q. There is quite a difference between an inch and an inch and a half? A. It varied in some places. It was not put on uniform.

Q. What was the average? A. I say an inch and a quarter, the average was.

Q. And it calls for two inches? A. Yes, sir.

Q. Was that a permanent line? A. Yes, that was permanent, these were separators, heaters and boilers, etc.

Q. They were all permanently fixed? A. They were permanent until they moved the building, or something like that. They are supposed to be permanent.

Mr. Richards.— I think that is all, Mr. Chairman, unless you have some questions.

By the Chairman:

Q. You say you are in the asbestos business? A. Yes.

Q. How long? A. Twelve years.

Q. Where is your shop? A. I buy my covering already made. I haven't any shop. I haven't any shop, except this, we buy the same as everybody else does; we do it ourselves, we buy the bags and make it up on the boilers, heaters, domes, etc., we make it up with water and put the hard finish on the outside.

Q. You have no permanent shop? A. I have no permanent shop.

Q. You figure on a contract and turn the job — A. I never worked on the Comstock job, no, sir.

Q. Where have you done any work? A. You mean different jobs?

Q. Yes. A. I suppose you want some of the large jobs?

Q. I don't care. A. It would take me all day to name over all the shops. I have done work for the Mica Insulating Company, the Chicago Fireproof Covering Company, of Chicago; done all the State buildings in the State of Ohio — I mean five of them, I did not do them all. I had charge of five of the State buildings in Ohio. I had charge of the Cherokee —

Q. That is enough. What business is Mr. Dempsey in? A. Hop business.

Q. Mr. Dempsey is in the hop business? A. Yes, in the hop business. He is just an acquaintance of mine.

Q. Did he offer to get you work with this Committee that was investigating at the time? A. No. He said he would like me to meet Mr. Blake and have a talk with him. That is all.

Q. Did you volunteer to give some information? A. I said I would meet him all right.

Q. I want to find out — A. I will tell you just how it comes, you know. It has been very hard. I have it all in here — I will show you, if you read it, it has been very hard for a small contractor to get any business out of the State whatever. You could not get up to the architect, in other words. He said to me if so and so is the case, there is a chance now with Sulzer being Governor, it is really a new deal all around. So —

Q. You had a grievance? A. I didn't have any grievance at all.

Q. You said it was hard to get up to the architect? A. Yes, it was hard to get up to the architect. You can call it a grievance if you want to, not only this architect, but all former architects.

Q. As to the contractor that does this work, is this work embodied in his general contract? A. Sometimes and sometimes not; sometimes the State hires the asbestos outright, and sometimes the heating company, it is embodied in their contract.

Q. What I want to know is this: You say it has been very hard to get the architect. I want to know whether, in the general contract when it is advertised, is that portion of the work that you are familiar with embodied in the general specifications of the general contract? A. Sometimes and sometimes not, I say. It ain't always the same. It isn't always the same. Sometimes the State hires it right out.

Q. The architect hires the men himself? A. No, lets the contract out, see, to a regular asbestos man; see, a regular asbestos company, and sometimes the State architect will let the heating company have the heating and asbestos together, don't you see?

Q. I understand that. That is embodied in one contract? A. Yes.

Q. What I want to find out is, when you make the statement that it is hard to get to the architect — is it customary for the architect to advertise for bids for asbestos? A. Not in the last six years it hasn't been.

Q. It hasn't been in the last six years? A. Not in the last five years, I should say.

Q. Then how would it be hard to get the architect? A. You couldn't get to him; that is all. John's man — if you will give me ten minutes, and recall me, I will show you in there why it is; they must be recognized and have shops, you know, and so forth, see? It is right in the specifications there.

Q. They must be in business permanently? A. Yes, see, and so forth. Must be large, in other words.

Q. It doesn't say that? A. No, it don't say that, but it means that, though.

Q. When you found this investigation was going on, you volunteered to Mr. Dempsey, having a grievance, to come before Mr. Blake — A. I didn't have any grievance personally. I would like to get some work personally, but I never tried myself to get any.

Q. Then, if you did not try to get the work, how do you make the statement here that it was hard to get the architect? A. Because my father did try to.

Q. Then it was your father who had the grievance? A. Yes, he did. He had a little grievance, all right.

Q. When your father read that Mr. Blake was about to investigate the prisons, you met your friend Dempsey — A. My father was dead at the time.

Q. He was dead? A. He was dead. Father died a year ago this May.

Q. But you at times heard your father make the complaint that there was a combination in the architect's office? A. He intimated such a thing took place.

Q. Then you volunteered to Mr. Dempsey that you could furnish Mr. Blake with very valuable information, was that it? A. No, I never said anything. I said I would go and look over any work; the way I understood it, they were looking over all the work; nothing more valuable than anybody else could give.

Q. You say it is hard to get to the architect to do any of this work. Still you say you haven't attempted to do it in five years. Is that so? A. I never attempted to do it.

Q. You never attempted it? A. I never attempted it, because I preferred mill work myself.

Q. You preferred mill work? A. I preferred mill work, real high pressure work, where they carry high pressure altogether; no low pressure whatever.

The Chairman.— That is all.

Mr. Richards.— One question, Mr. Francisco.

By Mr. Richards:

Q. You didn't ask for any pay for your services? A. No, I didn't ask for any.

Q. You were a volunteer? A. I didn't ask for any.

Q. You had this opportunity to do what you could? A. Yes.

Q. To help Mr. Blake. A. Yes.

Q. And to help the State? A. Well — I didn't care nothing about the State particularly.

Q. No desire to help the State at all? A. Yes, sure. I thought, maybe, as I told you, they said it was going to be a new deal all around, see?

Q. Who told you that, Mr. Dempsey? A. Yes, Mr. Dempsey told me that.

Q. You didn't make any charge for your services? A. No, sir; none whatever.

Mr. Richards.— That is all.

(Witness excused.)

Thomas E. Burney, called as a witness, being duly sworn, testified as follows:

By the Chairman:

Q. Your full name, Mr. Burney? A. Thomas E.

Q. Your residence? A. Rome, N. Y.

Q. What part of Rome? A. What part of Rome?

Q. Yes, the street address? A. 7 East Liberty. I have lived there sixteen or eighteen years.

By Mr. Richards:

Q. You live now in Rome? A. Yes, sir.

Q. And at the time of this work that you did you lived in West Willetts street? A. No, sir. My business place was West Willetts street.

Q. Oh, your business place. Now, what is you business, Mr. Burney? A. Contractor and builder.

Q. How long have you been in that business? A. Twenty-five years or more, perhaps.

Q. What kind of building have you done? A. General building.

Q. No, but I mean the character of the buildings themselves, the character of the construction? A. Brick —

Q. Brick? A. Frame work, stone, concrete.

Q. Your shop there is a carpenter shop, isn't it? A. Yes, sir.

Q. Have you got any brick or stone department in your business? A. No, sir. I have got a partner who works at that.

Q. You have got a partner? A. Yes, sir.

Q. What is his name? A. Edwin Catlin.

Q. He does the brick and stone business, and you do the carpentering? A. Yes, sir, usually, and some time we will take work together. We are now on a job — when materials are alike in the business we take it together.

Q. And how did you come to take up this examination of the Great Meadow prison? A. Through Mr. Francisco.

Q. Is he a friend of yours? A. Well, I know him.

Q. I mean you have done business together? A. No, sir.

Q. Did he speak to you first about taking this up? A. Yes, sir.

Q. Where was that, that he spoke to you about it? A. I think it was at the house, my residence.

Q. He came to your house? A. Yes.

Q. At evening? A. I think it was at the noon hour.

Q. What did he tell you? A. He told me he had a job at Long Meadow prison, and they wanted a contractor, a general contractor and builder, wanted to know if I would go.

Q. He had a job; what kind of a job did he tell you? A. He had a position, a job for me to investigate.

Q. A job to investigate? A. Yes.

Q. What did you say to him? A. I told him I would let him know in the afternoon.

Q. That you would let him know in the afternoon? A. I did not want to decide, because I was starting some work, and I did not know whether I should get through or not.

Q. Have you ever constructed anything on the style of this prison? A. Something on the style of it, yes, in a general way.

Q. Tell us what? A. Well, I was one of the contractors in our City Hall; St. Peter's Church —

Q. What part of the contract did you have? A. I had the wood work, and of course, if you know about the business, the carpenter has got to lay out the business.

Q. I am asking you what part you had? A. I had the wood work.

Q. Tell us of any building of any sort where you had the contract yourself for the masonry or concrete or brick? A. I cannot tell you. Why, I always sublet my brick and concrete work.

Q. Yes. A. I usually sublet.

Q. Now, can you— A. Now, wait a minute. I was the inspector on the Oneida County Hospital.

Q. I am not asking about the inspector. A. I had charge of that whole building myself, about $150,000 or $300,000.

Q. Say that again? A. I say I had the supervision and inspection of the County Hospital at Rome, N. Y.

Q. And what was your position as Inspector; whom did you represent? A. I represented the County.

Q. The what? A. The County.

Q. But I again come back to this proposition, did you ever build a building of the general character of Great Meadow prison yourself? A. Not exactly, no, sir.

Q. Did you ever build a building of that kind substantially? A. Oh, no.

Q. That answers the question. In other words, you never built a building of the character of Great Meadow, large or small? A. Well, no, not of the character of that building.

Q. Yes. A. Not a prison.

Q. When you went to Great Meadow, when you looked over this prison, did you feel you were competent to judge that? A. I was. I felt so.

Q. When you got there did you have the specifications of the building? A. I saw them, but I did not look at them. I did not look at them.

Q. You did not look at them? A. No. I looked at the general construction, the workmanship and the material was good.

Q. Did you make a statement at that time or any time to Mr. Blake, that you would take the business of constructing this building for $400,000? A. I don't remember it. If you want my statement, I have got it.

Q. I have the only statement which has been filed by you, which is as follows: A. I have got the copy.

Q. You have got the copy of it? A. Yes.

Q. Let me see it. A. (Witness produces paper) Of course, there are some things here you probably won't want to bother with. I cannot see without my glasses. It is in my sworn statement.

Q. I don't want to run over your private papers. A. No. Go ahead.

Q. You have no objection to my looking at it to find what you are referring to? A. No. There is not anything there.

Q. Annexed to your report that you handed to Mr. Blake is a paper which you call special orders, isn't it? A. That is what it is, whatever is on this paper.

Q. Have you got your glasses, so you can make sure of that? A. (Examining paper) Yes, that is it.

Q. And that you turned in to Mr. Blake? A. Yes, sir.

Q. I ask you to look at the printed copy of Mr. Blake's report, and see if there is any sign of any special orders annexed to it. A. (Witness examines report) I do not know what that means.

Q. Your answer is that you cannot find it? A. No.

Q. And that refers to the fact that all this work had been done and approved by the State Architect or by some of his employees, didn't it? A. I don't know anything about it. I didn't see it.

Q. Can't you just look at it to make sure that I am right about it? A. You mean this one right here?

Q. Yes. A. That was the fact. I have got his letters all in here.

Q. That is correct, isn't it? A. Yes, sir.

Q. Now, returning to the question of this whole construction, what was the course of construction of this building, Great Meadow Prison? A. (No answer).

Q. What was the cost, did you look into that? A. No, sir, I did not. I did not look into it.

Q. Could you tell us within a hundred thousand dollars what the cost of it was? A. I understood about $450,000.

Q. You understood it was about $450,000? A. That was the first building.

Q. The first building? A. Yes.

Q. Did you only look at the first building? A. The first and second, that was all.

Q. What was the total cost of the first and second building? A. I did not get it, I do not know. I did not see the contract. I do not know anything of what it cost. I did not look it up.

Q. Did you make this statement to Mr. Blake, did you tell him that you would be glad to take $400,000 for that contract? A. Is it in my report?

Q. No. A. Then I didn't make it.

Q. You didn't tell Mr. Blake anything of that kind? A. That is a copy of my report.

Q. I am asking you whether you told Mr. Blake that thing? A. I do not remember it. If I did, I didn't know what I was talking about.

Q. I am just calling your attention to it, so we will be perfectly clear on it. Mr. Blake was called to the stand and under oath was asked this question and gave this answer — A. In the first place, I don't know what the contract is or what the specifications were.

Q. You didn't know anything about it? A. I never looked into the construction of that matter.

Q. You didn't tell him that you would take it for — A. No.

Q. You didn't. (Reading): "Burney told me that he would be glad to take $400,000 for that contract"? A. Well, if I said that I didn't know it. He got my report, the same as I told him. If it is in that, I told him. If it is not, I didn't tell him.

Q. If it is not in any report you made, you did not tell him? A. No.

Q. Right. You say in your report this: "The depreciation of buildings from the above cause"— that is, the very unsuitable foundations, the ground upon which they stood? A. Yes.

Q. "The depreciation on buildings from the above cause, and from extreme dampness caused by deep excavations, and the natural wear of the elements would be in my estimation $75,000."

Q. Didn't you look into this thing enough to know what you would need to know when you gave that estimate? A. Yes, sir.

Q. On what basis did you estimate the whole value of the buildings? A. On $75,000.

Q. Yes, on the depreciation. You must have had something to estimate your depreciation on? A. I formed an opinion about approximately $500,000, or such matter, and then took it down.

Q. That is the way you figured it? A. That is the way I figured it.

Q. Without having the contract or specifications? A. Yes, sir.

Q. Looking at the buildings? A. Yes, sir.

Q. You figured out probably the cost was $500,000? A. Yes, sir.

Q. And you figured out the depreciation you saw from the cost you estimated in your report would be $75,000? A. Yes, sir.

Q. And that is all you meant in your report? A. Yes, sir.

Mr. Richards.— I think that is all, Mr. Chairman, as far as I am concerned.

By Mr. Yard:

Q. How long were you there inspecting? A. I was there, as

Mr. Francisco stated, we got there somewhere about noon, and we went away Saturday night at five o'clock.

By the Chairman:

Q. From Friday to Saturday? A. Yes. Of course, it took quite a while to locate the buildings. A man has got to locate his work.

Q. Did anybody give you measurements? A. No.

Q. You had no measurements at all? A. That is it.

By Mr. Yard:

Q. Did I understand you to say that the woodwork and the construction was good? A. The woodwork, I mean the materials throughout, and the workmanship is good, first class.

Mr. Richards.— That is all.

(Witness excused.)

Mr. Taylor.— I have a communication from the Governor which I would like spread upon the minutes, introduced in evidence.

(Mr. Richards examines paper.)

Mr. Richards.— Mr. Chairman, I will say in regard to that that I think you should see it before it is spread upon the minutes, because it does not answer our questions, what we are after.

(The Chairman examines the communication.)

The Chairman.— Mr. Richards, I think you want this.

Mr. Richards.—All right, read it.

The Chairman.— The following communication has been received from the Governor in answer to my request for certain papers, and as the Governor desires this to be a part of the record, I shall read it and have it spread on the record: (Reading.)

"STATE OF NEW YORK

"EXECUTIVE CHAMBER,

"ALBANY, *July* 15, 1913.

"Hon. JAMES J. FRAWLEY, *Chairman, Legislative Investigating Committee, Senate Chamber, Capitol.*

"DEAR SIR.— Pursuant to your written communication of written date, requesting that I furnish to your Committee certain

reports and papers in my possession relating to the investigation of certain State prisons this morning, by my private secretary, I sent such of the requested documents which I have found in my possession and under my control, as I deem, in my discretion, proper at this time to assist in the deliberations of your Committee, within the sphere of its legitimate powers.

"I never have and never shall hesitate to communicate to the Legislature all the information required by the Constitution, or which my judgment may suggest to me, or a request from the Legislature or any of its committees may indicate as useful in the discharge of the appropriate duties confided to them, so far as in my judgment, the promulgation of the facts and information requested are not incompatible with the public interests.

"I respectfully request that this communication be spread upon the minutes of the hearing of your Committee now in progress.

"Very respectfully,

"(Sgd) Wm. Sulzer."

I may say to the Governor that the papers which this Committee requested, under advisement of counsel, we feel that we are entitled to see. They have become a public document, the matter has been submitted to the Legislature by the Governor of this State. In that document it is stated that a great amount of graft, a great amount of money has been stolen from the State in this contract.

The Legislature, in its wisdom, felt it was in duty bound to investigate and assist the Committee or the Special Commission which the Governor had selected to make this investigation. We feel that the original document is the property of the State, and we do not feel the Committee has in any manner overstepped its rights in asking the Governor for the original copy or the original report made by Mr. Blake and his experts.

We feel that inasmuch as the Governor found it important enough to submit this to the Legislature, we feel that in turn it is important enough for us to demand from him those original papers so as to help this Committee if a crime has been committed in the construction of the Great Meadow prison, that they may in turn prosecute those men who have been robbing the State; and let it be understood that the Legislature, or this Committee, which is a part of the Legislature, desires to assist the Governor in prosecuting just such work.

If the counsel feels that this communication from the Governor is denying him the original document when he says that he feels that data furnished to us now is enough for the best interests of the State, there must be some other papers in his possession, and if the counsel feels that he is denied a wide enough scope and latitude, I think that the Legislature should be so informed when it meets to-morrow evening.

Mr. Richards.— Mr. Chairman, I desire to call the chairman's attention to this provision of law: The State of New York is paying $1,500 a year to an individual connected with the Executive Chamber in his capacity and for the purpose of discharging the duties of keeper of public records. That under the law and under the appropriation, that money is being paid to Major Schermerhorn, the Military Secretary of the Governor, for the purpose of keeping the public records, so far as the appropriation goes, and so far as his salary goes. I think that as far as this is concerned, this is a proper subject for investigation, to find out whether, or not the keeper of public records does keep public records, or whether somebody else does; and I ask the Committee to have the secretary of this Committee request Major Schermerhorn to come here at a succeeding session and state what he does in regard to keeping the public records of the Executive Chamber.

The Chairman.— Do you desire that in the form of a subpoena?

Mr. Richards.—A subpoena, I think, would be the best way. I think the subpoena should be issued, returnable at such time as the Committee may direct.

The Chairman.— Do you desire this letter as part of your record, Mr. Richards?

Mr. Richards.— Yes, please.

The Chairman.— Your next witness.

Mr. Richards.— Is Mr. Hunter here?

Mr. Hunter.— Yes.

Wallace B. Hunter, called as a witness, being duly sworn, testified as follows:

By the Chairman:

Q. Your full name? A. Wallace B.

Q. Where do you reside? A. 14 Eighth street, North Troy.

By Mr. Richards:

Q. Mr. Hunter, what is your business? A. Well, I have always been in the hotel and restaurant business.

Q. That hardly answers my question. Would you mind telling us what your business is now? A. My business is now?

Q. Yes, sir. A. I am not doing anything just now.

Q. And how long have you been not following any particular business or profession? A. There have been different seasons of the year that I have followed different things.

Q. I don't want to pry unnecessarily into your private affairs, but I would like to know what you did last? A. What I did last?

Q. Yes. A. I had some exhibition horses.

Q. Where? A. Wheeling, West Virginia, the last place.

Q. When was that? A. Last month.

Q. And before that, what were you working on? A. I always worked at the hotel and restaurant business.

Q. No, but before your experience in Wheeling, West Virginia? A. Before I was at that?

Q. Yes. A. Well, there is a lot of the time that I wasn't employed at all.

Q. And before that, when you were last employed, what were you doing? A. In the hotel and restaurant business.

Q. Where was that? A. New York city.

Q. Haven't you been doing any other restaurant or saloon business since then? A. Yes.

Q. Where? A. Cohoes, N. Y.

Q. What did you do, keep a saloon there? A. Restaurant and saloon together.

Q. Yes, a restaurant and saloon. How long did you keep there? A. Two years.

Q. When did you start to do that? A. Two years ago last January.

Q. And from a year ago last January what have you been doing? A. I haven't been doing much of anything, only exhibiting some horses. That is all.

Q. And you exhibit this chariot racing? A. Yes, sir.

Q. Chariot exhibition? A. Yes, sir.

Q. Are you engaged in that now? A. Sometimes, yes, sir.

Q. I mean from day to day or from week to week? A. No, only when the fairs are on.

Q. Have you had any? A. I said three weeks ago I was at Wheeling, W. Va.

Q. Is this a representation of your exhibition (handing card to witness)? A. Yes, sir; a picture of the horses; yes, sir.

Q. That is a representation of a Roman chariot race? A. Yes, sir.

Q. In which you appear and your racing partner appear in Roman costume? A. Sometimes, yes, sir.

Q. And race for the fairs or other amusement places? A. I did not appear at all at Wheeling.

Q. That is the general run of your exhibition? A. Yes, it is an exhibition.

Q. Yes. It is an exhibition.

Mr. Richards.— I want that marked.

(The card was marked Exhibit 11 of this date.)

Q. I understand when you took up this work with Mr. Blake that you were not doing anything? A. No, sir.

Q. And how long before you took up the work with Mr. Blake had you been doing anything? A. Two or three months.

Q. How did you come to go and see Mr. Blake about this matter? A. I picked up the paper and read of Mr. Blake's appointment and I came to his office, saw him and had a talk with him.

Q. You didn't take any reference or letter of introduction? A. Yes, sir; I took a reference with me.

Q. From whom? A. From the Dennett Restaurant Company of New York city.

Q. How long ago were you connected with the Dennett Restaurant? A. I was connected with them for five years.

Q. How long ago? A. Oh, that was eight or nine years ago.

Q. You wouldn't say that it was more than ten? A. Possibly it might be ten.

Q. You cannot give us any nearer than that, the last date you were in the restaurant? A. No, I cannot.

Q. You wouldn't say it was as much as fifteen? A. It was not fifteen.

Q. Somewhere between ten and fifteen? A. No, it was not fifteen. It was about nine or ten years ago.

Q. About nine or ten years ago? A. Yes, sir.

Q. What was your position with Dennett's Restaurant? A. I

held several positions. I was manager for two years at the 25 Park Row house. I was inspector for them and examined all of their restaurants.

Q. And after that time, nine or ten years ago, you haven't been in the restaurant business except in so far as you have had one in connection with your saloon? A. Yes, sir.

Q. Whereabouts? A. In the Temple Court Building at 3 Beekman street.

Q. When was it you saw Mr. Blake, do you remember what date it was? A. I think it was about the 15th or 16th of March.

Q. Shortly after his appointment? A. As soon as I read of his appointment I saw him.

Q. You came over here and saw him in Albany? A. Yes, sir.

Q. Where did you see him? A. At Benson's baths, where he had his office.

Q. And how was your compensation fixed? A. My compensation?

Q. Yes. A. $130 per week.

Q. How was it fixed? I know what it was fixed at, but how was it fixed? A. How was it fixed?

Q. Yes. A. I suppose you want me to go in and state what led up to Mr. Blake's employment of me?

Q. Yes. A. I am here to give the Committee all the information they want.

Q. We want everything you have to say on the subject? A. I had some experience in investigating before, if it is of any benefit to the Committee they will find my affidavit, that after inspecting the Tombs in the city of New York, that was what removed Warden Flynn.

Q. You told this to Mr. Blake, I suppose? A. I am going to lead up to why Mr. Blake employed me.

I explained to Mr. Blake the mode of procedure for him to investigate and find out conditions in a prison or any public institution. He says to me, "Mr. Hunter, I would like to employ you." He says, "What do you want a week?" I said "One hundred dollars." He says, "Wouldn't you work for any less?" I said, "No, sir," and I said, "My expenses besides."

He said, "Well, you come and see me later," he says, "and I will see what I can do."

And so I went back and saw him and he employed me and the next day he sent me to Auburn prison.

Q. That disposes of that interview at which you had your salary fixed. You fixed it, you said you wanted $100 and $30 for expenses, and he said, all right? A. Yes, sir, because I would not work for any less.

Q. You had told him what your qualifications were? A. Yes, sir; I showed him a reference from the Dennett Restaurant people where I was employed for five years.

Q. You went to Auburn first? A. Yes, sir.

Q. And from there where did you go? A. From Auburn I went to Great Meadow.

Q. Great Meadow came next? A. Yes, sir.

Q. And did you investigate the Great Meadow situation? A. Just the commissary department, that is all.

Q. That is what I mean; and how long were you there at Great Meadow? A. I think about a week or something like that.

Q. Did you have anybody with you to help you? A. Yes, sir.

Q. Who was that? A. Mr. John M. Bogart.

Q. Anybody else? A. All our commission was there.

Q. Whom? A. Mr. Wheeler was there, Mr. Lee—

Q. Was Mr. Blake there when you first went there? A. Yes, sir.

Q. You all went there together? A. No, I went there ahead of Mr. Blake.

Q. That is what I am getting at. How long were you there ahead of Mr. Blake? A. Possibly one day.

Q. You investigated it and when you got through you told Mr. Blake in a general way what you found? A. Yes, sir.

Q. Did you report to Mr. Blake on anything but the Commissary Department? A. Nothing but the Commissary Department, that was all.

Q. Did you keep a copy of that report? A. Yes, sir.

Q. Have you got a copy of it with you? A. Yes, sir. (Witness produces same.)

Q. When you handed this report to Mr. Blake did you say anything to him about its being the worst condition that you found in any prison, the substance of it? A. The worst one, which prison do you mean—

Q. I mean Dannemora, the Clinton Prison? A. No, I do not know that I made any particular remarks.

Q. Well, take up Dannemora. You went to Dannemora, afterward, didn't you? A. Yes, sir, after Sing Sing.

Q. You had been to Sing Sing? A. Yes, sir.

Q. Auburn? A. Yes, sir.

Q. And Great Meadow? A. Yes, sir.

Q. Before you went to Dannemora? A. I was to Elmira.

Q. Did you go to Dannemora last? A. Yes, sir.

Q. With regard to Dannemora, did you make a report of the conditions you found in Dannemora prison? A. Yes, sir; right there.

Q. With regard to Warden Kaiser? A. I made no report upon Warden Kaiser or any warden. I just made a report of conditions in the commissary department, the manner in which the prisoners were fed and the food was handled.

Q. What did you find the condition to be in the Dannemora prison with regard to the particular subject you were investigating as compared with other prisons? A. I found it is due to a condition. They are about 50 years behind time in the prison in the manner in which they handle their stuff. As I said in my report, a saving could be made by installing certain electric machinery; the ovens are not large enough as you seen in my report; it only takes one-half of the rations at one time and it takes eighteen minutes to seat the entire prison in the mess hall, as I timed them, and sometimes the food is away from the fire fifty-eight minutes, and that is the reason there is so much waste in some of the prisons, as I reported.

Q. We do not find any copy of the report attached to the papers Blake filed. Did you give him a report? A. Yes, sir.

Q. This is a copy of it? A. Yes, sir.

Mr. Richards.— I ask to have that marked in evidence.

(The report referred to was marked Exhibit 12 of this date, and will be found at the close of the day's proceedings.)

Q. How long did you spend at Great Meadow, a week? A. Yes, possibly.

Q. Did you have any testimony taken on your side of the question? A. No, sir; I will tell you why that was not done. The condition at Great Meadow Prison — they have no mess hall for feeding their people. It is a temporary building, a kitchen installed temporarily. They have no storekeeper there, and they have practically no storeroom, and they are buying their stuff from time to time, and no way of keeping anything, and the conditions — I figured on the circumstances that Mr. Riley, the kitchen keeper, was doing as well as he could do under the circumstances, the conditions.

Q. At Great Meadow? A. Yes, sir.

Q. Then so far as your investigation of the commissary department at Great Meadow is concerned, you think that under the conditions that existed, the physical apparatus they have there and the physical arrangement, they were doing the best they could? A. The best they could, except I sat down with Mr. Kaiser in his office and explained to him where the whole system was entirely wrong in purchasing. Mr. Kaiser — Mr. Homer, I mean — Mr. Homer is the warden.

Q. Go ahead. A. And I explained to him that the way the goods were purchased — you see the prison has no way of telling; the goods are purchased here in Albany, and there is never a sample sent, and there is no way of telling that the goods delivered are the same goods as were purchased at the department. They may exhibit first class goods here and ship poor grade material into the institution — I do not say that is done, but the condition exists, and the State if they would deal direct with the manufacturers would save at least $100,000 a year in the Prison Department alone in purchasing, as I said in that report, and explained each item — for fish, meat, pork and everything else.

Q. Having explained the theory for purchasing these things — A. Yes.

Q. I want to get back again to the proposition, so far as your investigation was concerned, that taking the system in vogue, taking the material and the physical condition they had to deal with, in regard to Great Meadow, that they were doing, according to your opinion, the best they could? A. Yes, under the circumstances, under the existing conditions, yes, sir.

Q. I want to call your attention to Dannemora. That is where Warden Kaiser was when you were there? A. Yes.

Q. How long were you at Dannemora? A. Two weeks.

Q. You spent a good long time there as compared with the others. You were only a week at Great Meadow? A. There are more inmates. Only five hundred and the condition such it didn't take much time to investigate Great Meadow.

Q. You spent about two weeks at Dannemora? A. Any man to investigate them properly should put in a month at each institution.

Q. Did you make a separate report in regard to Dannemora to Mr. Blake? A. There is the report.

Q. I am asking you whether you made a separate report? A. No. There is my report.

Q. While you were in Dannemora, didn't you go and write out a report and hand it to Mr. Blake? A. No, sir. I done with Mr. Blake as I done at all other institutions, handed him a list of names of men I picked out for him to subpoena and appear before him.

Q. What is the date of this report, can you tell me? It doesn't seem to be on here at all? A. I did not date my report. I did not make up my report until after I finished the prison.

Q. You don't remember when that was? A. Around the first of May.

Q. I want to make sure that you did not give any separate report and write up a separate report on the Dannemora case? A. I did not.

Q. And you did not make any special criticism of Warden Kaiser? A. No, sir, I did not make any special criticism.

Q. And you found nothing to criticise in Warden Kaiser's management, as far as you were concerned, as far as you had to deal with? A. Well, no more than the conditions I stated in my report. They had plenty of help. They had some pipe and plenty of galvanized iron, and I showed them a way of installing a warming apparatus at very little cost, and they had lots of help to install it, and if you will read my report —

Mr. Richards.— I have not the time here. I am going to read it. I think I want to read the testimony in regard to some of this matter during the recess, and I would like to have the Committee take an adjournment so I can go into these matters. I therefore ask the Committee to adjourn until two o'clock.

The Chairman.— The witnesses subpoenaed in this matter will return here at two o'clock.

Whereupon, at 12:30 p. m., the Committee adjourned until 2:00 p. m.

AFTERNOON RECESS — 2:30 P. M.

Present — Parties as before.

The Chairman.— We are ready, Mr. Richards, any time you are, sir.

Mr. Richards.— Mr. Hunter, will you take the stand, please?

Wallace B. Hunter resumed the stand.

By Mr. Richards:

Q. When did you cease work on this matter for Mr. Blake? A. Some time in May. Just the exact date, I don't know.

Q. And the only report on any of the prisons covering any of the subjects is the report a copy of which you have produced here? A. Yes, sir.

Q. And that embodies your whole ideas on the subject? A. Oh, no, not entirely.

Q. Well, you have already given us a general idea of the working conditions in the prisons with regard to the department in which you are interested? A. Yes.

Q. And you have given us your conclusion orally with regard to it? A. Yes, sir.

Q. And the details are set forth in this record? A. Yes, sir.

Mr. Richards.— I think that is all, Mr. Chairman.

By the Chairman:

Q. Mr. Hunter, in your report did you make any statements as to the graft? A. No, sir. The report speaks for itself. I just reported the conditions.

Q. The conditions only? A. And where a saving could be made, and how it could be made. Any condition that existed there that I thought was wrong, or that I knew was wrong, I explained the remedy for it in my report, as the report speaks for itself, Mr. Frawley.

Q. You were engaged as an expert on commissary? A. Yes, sir.

Q. How old are you? A. 42.

Q. You say you got a recommendation from Dennetts? A. Yes, sir.

Q. For what particular purpose? A. As manager and inspector of the restaurants.

Q. Now, a manager and an inspector of restaurants is not the buyer, is he? A. Why, he buys for the house that he is in.

Q. He buys the materials? A. Yes, sir.

Q. He purchases it? A. Yes.

Q. And you were there for five years? A. Yes, sir.

Q. In what restaurant in the Temple Court, in New York City were you employed? A. New York City is the one I opened there myself, No. 3 Beekman Street, corner of Theatre Alley.

Q. That was a restaurant pure and simple? A. Yes, sir.

Q. No saloon attached? A. No saloon; restaurant and quick lunch.

Q. You say you carried on the restaurant business in Troy? A. No, sir.

Q. You had a saloon in Troy? A. No, sir.

Q. In Cohoes did you carry on a restaurant? A. Yes, sir.

Q. What was the nature of your restaurant there; what character was it, quick lunch, too? A. Yes, on that order.

Q. Connected with a saloon? A. Yes, sir.

Q. In what month did you visit the prison at Clinton? A. In April.

Q. In April A. The latter part of April.

Q. Whom did you talk to there? A. Why the storekeeper, the kitchen keeper.

Q. Anybody else? A. A number of the inmates.

Q. Do you remember talking to one Louis Dietrick? A. Yes, sir.

Q. What was the subject of your conversation with him? A. My conversation with him was with reference to the conditions in the prison, as he had been there for a long time.

Q. Anything else? A. That was about all.

Q. Did you talk about any patent that he owned? A. He showed me a patent that he had, that he had arranged to sell to some firm, and he said he could not get any mail or anything out of there, but he had some arrangement by which he had sold it.

Q. He had sold it? A. Yes, sir, to some firm.

Q. Did you sell it for him? A. No, sir.

The Chairman.— Mr. Richards, there is an affidavit which I have received, and if it is not true, an injustice has been done to Mr. Hunter. I would like you to read that into the record, and ask Mr. Hunter, if he, in talking with this convict there, made an arrangement with him whereby he was to secure a pardon for this prisoner Dietrick in return for these patents. I would like you to read that for the record. It is a sworn affidavit.

Mr. Richards (Reading):

"STATE OF NEW YORK,
COUNTY OF CLINTON, } *ss.:*

"Louis Dietrick, No. 6496, being duly sworn, deposes and says that I am an inmate of this institution and have been since June, 1904. On or about Wednesday, April 30,

1913, Mr. Wallace B. Hunter, one of the investigators on Commissioner Blake's Investigating Committee, sent for me and held an interview with me in the Chaplain's office.

"During the interview, the subject of my inventions, automobile wrench, five tool wrench, and another quick acting wrench, necktie protector and a scarf pin protector, came up. Mr. Hunter said 'They look good, why don't you try and get them out.' He said, 'let me have them and I will show them to the Governor, and I will see what I can do for you. So I let him have an automobile wrench that I had with me at the time, and I told him I had the rest in my cell, so he told me he would be over to see me Friday, as he was going away that day. He came to see me in the weave shop in ten company, where I work, and said, 'hello, how are you?' I told him 'all right.' He said, 'Have you got the models?' I told him, 'Yes.' I had them down in the corner in my box in the shop. He said, 'All right, let's go down and get them.' I told him, 'Look out for the Screw, I don't want the Screw to see them,' meaning the keeper, so we stepped outside for a few minutes, and I talked the matter over in regard to the models; and while there I handed him the scarf protector and pin protector. He said 'They are all right.' Now, he says, 'let me have the wrenches.' So we went back into the shop where I work and I gave him the five tool wrench and the quick acting wrench, and the letter for Governor Sulzer. 'All right,' he says, 'I will go down and see what I can do for you.' He took the wrenches and put them in his pocket and told me I would hear from him shortly, but I haven't heard from him as yet. Of course, it was understood between us, that whoever took this matter up was to get half shares, and he told me that he would look after that. I told him I was working on a knife sharpening machine, and he told me to make a drawing of it, but not having heard from him, I did not send him the drawing. In my conversation with Mr. Hunter, he said to me, 'You know you are a third timer. I don't know about a pardon or commutation of sentence.' So I said to him, 'How about a special parole?' He said, 'That is it Now, don't worry, I will do the best I can for you, and you will hear from me shortly.' On Saturday, June 7th, I sent No. 8963 George Curtiss, who was discharged from this prison on that day,

to go and see Mr. Hunter for me. Whether he did or not, I can't say, as I haven't heard from either he or Mr. Hunter. One of my fellow convicts working with me in the weave shop saw me give the models to Mr. Hunter, and he told me he thought I was very foolish to do so.

" No. 6496 LOUIS DIETRICK.

"(J. E. Douglas,
" Notary Public,
" Clinton County).

" Subscribed and sworn to before me this
14th day of June, 1913.
" J. E. Douglas,
" Notary Public."

By the Chairman:

Q. What have you to say to that, Mr. Hunter? A. I promised no convict I ever talked to any pardon, or that I would intercede with Mr. Blake or with the Governor in any way, and I have never mentioned such a subject to the Governor, nor to Mr. Blake.

Q. Did you take any wrench? A. I have a model of a wrench that he had. He told me that he had sold it to a concern somewhere out west.

Q. He told you he had sold this wrench? A. Yes, he told me he had sold it.

Q. When did you get this wrench and model from him? A. Oh, I think the day I came away from Clinton Prison.

Q. When was that, Mr. Hunter? A. Oh, it is — well, the last day I was there — I do not know just the exact date.

Q. Well, how long? A. Well, the latter part of April.

Q. He had not sold it then? A. He told me he had sold it.

Q. If he had not sold it — if he told you he had sold it, why did you take the wrench? A. He even handed me a letter. He handed me a letter from the firm that he had sold it to.

Q. What did you do with that letter? A. I think I have the letter.

Q. Would you produce that letter to this Committee? A. Why, certainly, and the model.

Q. You took the model from this prisoner, did you? A. Yes, I took the models.

Q. What was the understanding? A. There was no particular understanding.

Q. He just handed them to you? A. I told him when I got through with this investigation I would see some practical man and if there was anything doing he would hear from me. Up to the present time I have not done anything.

Q. He did not sell them? A. Only to some manufacturer in the west, Illinois or Ohio somewhere.

Q. What models or what wrenches did you take? A. I will bring you the wrench right here and show you.

Q. I understand that, but you say you have a letter showing these wrenches or models were sold by this prisoner. A. The letter was addressed to Dietrick and he asked me to look into it, and I haven't had time.

Q. You haven't made any report to this prisoner? A. I haven't yet, no, sir.

Q. You haven't made any report to this prisoner as to what disposition you made of the wrenches? A. No, sir, I haven't.

The Chairman.— That is all. Do you want Mr. Hunter any further?

Mr. Richards.— I only want to call his attention to one or two other things that are in the affidavit so he will have an opportunity to explain them.

The Chairman.— Senator Ramsperger asks me to ask you, Mr. Richards, if there was not some report in which it was stated that three thousand tons of food were wasted every month in the prison?

Mr. Hunter has not said that. Mr. Hunter says he doesn't find anything wrong there.

Mr. Richards.— My recollection is that is with regard to Sing Sing because we have not taken up the details of those other reports.

The Witness.— There was a thousand pounds of waste at one meal at Sing Sing.

Mr. Richards.— My recollection was that it was something of that kind.

The Witness.— Over 1400 prisoners.

Mr. Richards.—We have been trying, except once or twice in some small matters, we have been trying to keep to Great Meadow.

If the Committee desires to go into the others, we can, but I think we had better take them up in order.

The Chairman.— I think we had better get this straightened out.

Mr. Richards.— I think that is what Senator Ramsperger refers to.

By Mr. Richards:

Q. I understand you to say, I want to get it clear, Mr. Hunter, that there was nothing between you and this convict whereby you were to do anything to get him out on special parole? A. No, sir; there was not. I never made no such assertion to any convict in the prisons.

Q. Did he give you a letter for Governor Sulzer, as he says he did? A. He handed me some papers there.

Q. Was there a letter for Governor Sulzer among them? A. I don't know.

Q. Haven't you looked at them? A. No, I have not. They are tied up just as they were handed to me.

Q. You mean to say that you took those tools and papers away, the wrench and tools and have not looked at them since? A. I have been too busy.

Q. What have you been so busy at since this occurrence so that you did not attend to it? A. I have been away.

Q. You got here some little time ago from Wheeling. Now, you are not doing anything, are you? A. No.

Q. And you have not been doing anything, have you? A. No, I am down the river on my vacation now.

Q. Do you propose to do anything about this? A. When I get around to it, yes. I am going to show them to some firm and if they are satisfied to do anything with them, why all right. As soon as they do, I will communicate with him.

Q. And you have not been doing anything on the prison investigation since some time in June? A. No, sir. I think some time in May.

Q. Did you see this man George Curtis, No. 8963? A. Yes, sir.

Q. What did you tell him? A. Why, he came to my house — came down to the boat just as I was going away, and I didn't have any chance to talk with him, and he asked me if I had wrote

to Dietrick, and I said no; he said he was going to write to him. I said all right. He said, what did you do about those things of his. I said I didn't do anything, I haven't had time; I was too busy.

Q. When was that? A. I think that was about a month ago.

Q. How long have you been back from Wheeling, West Virginia? A. A couple of weeks.

Q. And you say that you still intend to do something in the way of helping this fellow, do you? A. Why, when he gets out, if I find anybody that wants to manufacture these, or anything, why I may do something for him.

Q. You mean you are going to wait until he gets out. What was the good of his handing you this stuff and your taking this stuff while he is in? A. There was no agreement between him and me as to what I should do or when I should do it.

Q. I am just asking you for your own mental operations, how you look at this thing. I am asking you what did you intend to do. Did you intend, when you took the wrenches, and these tools and the letters, to let them lay until the man got out? A. Oh, no, I didn't. If I get time to attend to it, I will.

Q. How long is he in for? A. I don't know. I didn't look that up at all.

Q. He is a third termer, isn't he? A. Yes.

Q. And as far as you know, it could be ten years anyhow before he would get out? A. I don't know. I didn't look up any one's sentence.

Q. I understand you didn't, but as far as you know, it may be ten years before he can get out? A. I think he told me he had two years to serve.

Q. He told you he had two years to serve. What you are going to do now is to let this thing all wait until he gets out two years hence? A. I haven't made up my mind as to just what I am going to do.

By the Chairman:

Q. Do you mean for this Committee to understand that without any further conversation between yourself and Dietrick, he turned over to you the models and wrenches? A. Yes.

Q. That he had made in prison, without any agreement or any talk of what was to be the result? A. Wait until I tell you what he said to me. He said, if you can do anything with it, if you

can get a dollar out of it or anything to help me, I will be glad to have you do it.

Q. Did he say to you to come back to his box where he had it hid and don't let the "Screw know anything about it?" A. Yes.

Q. Did he say that to you? A. Yes.

Q. And you were investigating prisons? A. I walked back to the machine where he was working.

Q. And you deceived the keeper? A. No, I told the keeper.

Q. You told the keeper? A. No, I went right to the desk and told the keeper that I wanted to see Mr. Dietrick.

Q. You told the keeper that you had received these models and papers from Dietrick? A. No, sir, I did not.

Q. You didn't do that? A. No, sir.

Q. Do you want this Committee to understand that you accepted these papers from this prisoner and you never looked to see what they contained? A. No, sir; I had a stack of other stuff that I was looking into in reference to my report as to waste in goods. That was tied up by itself.

Q. Wait a moment. This had nothing to do whatever with the duties you were engaged to perform. You were paid $130 a week, according to your own statement, to investigate the Commissary Department of State Prisons? A. Yes, sir.

Q. This pertained wholly and solely to a prisoner who owned a patent, that had nothing whatever to do with the investigation, you don't show that in your report? A. No, sir.

Q. This was a matter between you and Dietrick which Dietrick submitted to you for your consideration. Did you show that letter to Governor Sulzer that you received from Dietrick? A. No, sir, I did not.

Q. Where is that letter from Dietrick that you got for Governor Sulzer? A. It must be done up with the package.

Q. And you never read it? A. No, sir, I did not.

Q. You felt you were doing justice to this poor unfortunate who was confined for a long term in State's prison, to take the result of his brain and try to commercialize it? A. Stop right there, if you please.

Q. No, I won't stop any place — A. I never commercialized anything. I never showed it to anybody. I haven't tried to do anything with it because I haven't had the time.

Q. Then you never even carried out the agreement you made with this man to speak with Governor Sulzer for his pardon, did

you? A. I did not go into any agreement to speak to Governor Sulzer about a pardon.

Q. Then why did Dietrick take you out and hand you secretly these things that he had hidden away from the warden, the keepers, and so forth? A. There is nothing hidden at the prison.

Q. This man says in that sworn affidavit that he had these models hidden away? A. He brought the models into the office.

Q. He brought the models into the office? A. Yes.

Q. When he testifies — A. Wait a minute. He showed me one of the models. He said, I have something here I want you to see. I said, all right. I will be through here to-morrow, and I will go up about noon, and then I went back, just before I left the prison, and he let me have the models, and I said I will see what I can do with it as soon as I get time, but while I am interested in this work I am going to complete this first. That was my conversation.

Q. Nothing further? A. There was nothing as to dividing half or any copartnership or anything else, and he handed that to me and said, if you will find any firm to buy them, and I can get anything out of that — there is no patent applied for.

Q. What was your understanding of it? A. My understanding was he was to pay me whatever I could get out of it, if I could sell it in any way.

Q. How much? A. No agreement as to pay. How do you know you will get anything? It may sell for $100 or $5,000.

Q. You say he was going to pay you out of what was received? A. There was no agreement as to the pay. How can you tell what it would be, when you don't know?

Q. If you were to sell that patent for a dollar, how much was to be your share? A. There was no agreement. There was no agreement whatever.

Q. How much were you to get? A. There was nothing said about how much I was to get.

Q. There was nothing said about what you were to get? A. There was not.

Q. There was no understanding? A. No understanding at all about it. Only to see what I could do with it and let him know.

Q. You walked into prison. Mr. Dietrick immediately was confident of you, and took you and showed you these models and then turned over to you all of the papers and models without any agreement? A. That is certainly what he done.

Q. That is what he done? A. He wanted me to see what I could do with that, and I haven't had time to see what I could do with it.

Q. Do you want this Committee to believe that you accepted all these papers from this convict and never looked at one of the papers? A. Yes. Some of the papers I looked at; I didn't look at all of them.

Q. You know he gave you a letter to be delivered to Sulzer so something would be done for him; isn't that so? A. I don't. It was quite a little talk he had with me.

Q. He wanted you to help him with Sulzer? A. And I had a stack of papers that high (indicating).

Q. From him? A. No, from the Department of Prisons.

Q. This was a special agreement between you and Dietrick? A. No, it was not a special agreement between me and Dietrick.

Q. Are you sure Mr. Blake had nothing to do with it? A. No.

Q. Didn't you know he gave you a letter to Governor Sulzer? A. No, I did not. I did not open the package.

Q. Will you produce that package? A. Yes.

The Chairman.—Very well. That is all.

By Mr. Richards:

Q. Did you ever report this matter to Mr. Blake? A. I think I showed Mr. Blake the wrench.

Q.Did you tell him about anything else in regard to these patents? A. No, sir.

Q. Did you tell him anything about this proposition that the fellow expected to get some sort of a parole pardon out of it? A. No, sir.

Q. What did you say to Mr. Blake about the wrench? A. I just showed him the wrench and asked him what he thought of it. That is all.

Q. Did you tell him where it came from? A. Yes.

Q. One of the convicts? A. Yes.

Q. And that you were thinking of trying to see what you could do in the way of getting it patented? A. I did not say I was going to get it patented.

Q. You just showed him the wrench and said it came from one of the convicts? A. That is all the conversation. I asked him what he thought about it.

Q. What he thought about it. For what purpose? A. Well, I don't know as Commissioner Blake is an expert on automobiles or anything that he would know what the wrench was for.

Q. No, I mean what he thought of it, for the purpose of using it, for the purpose of getting it patented, for the purpose of getting the prisoner out — what was it? A. There was no arrangement made about getting out a prisoner or anything else.

Q. You said you had talked with him about this wrench, with Mr. Blake, you showed it to him. What was the purport of that talk? A. Nothing, no more than that Mr. Blake was in the room, and I said what do you think of that, I showed him it, and said, what do you think of it.

Q. You did not tell where it came from, one of the convicts? A. Yes.

Q. And he wanted it patented? A. No conversation about that.

Q. You never said anything about the fellow wanting to get a parole? A. No, sir.

Mr. Richards.— That is all.

The Chairman.— He did not discuss this with Mr. Blake at all?

Mr. Richards.— No, I guess not.

The Chairman.— That is all.

By Mr. Richards:

Q. How long have you known Mr. Blake? A. About twelve years.

Q. Intimately? A. No, sir; not intimately. I just made — I knew Mr. Blake when he was secretary for Mr. Cantor in New York city.

Mr. Richards.— I think the witness should be directed to appear at the next sessions of the Committee and bring those papers to be formally entered upon the minutes, subject to the decision of the Committee.

The Witness.— Do you want the model?

The Chairman.— We prefer to see the letter.

The Witness.— I will bring it all and hand it to you.

The Chairman.— When can you have it? We want to get this cleared up.

The Witness.—The day after to-morrow.

The Chairman.— By Thursday?

The Witness.— Yes, sir. Anything else you want?

The Chairman.— No. Only the man sent this letter to me, and if it is true, I want to know it, and if it is false we want to protect you, the same as we want to protect every other witness, if a false statement is made about him, we want to protect him.

The Witness.— I have my book of waste of each one of the prisons, and I will bring that here and any questions you want to ask me I will be perfectly willing to go to the bottom of it.

(Witness excused.)

Mr. Richards.— I find on looking over these papers at recess that there is a very large mass of evidence which I want to go through and digest, the evidence of these witnesses; and I think before further examining Mr. Blake and the other members of this Commission, that I should have an opportunity to go into that thoroughly; and for that purpose, I ask the chair to suspend this part of the examination until the next hearing, and I will take up another matter, if that is satisfactory to the Committee.

The Chairman.— We are perfectly willing.

Mr. Richards.— Keeping these men under subpoena until the next hearing.

The Chairman.— Who is your next witness?

Mr. Richards.— The Comptroller's office.

The Chairman.— Mr. Richards, I notice a gentleman from the State Architect's office. Do you want him?

Mr. Richards.— I think he had better be here.

The Chairman.— I mean to-day, this afternoon.

Mr. Richards.— No, not any further to-day.

The Chairman.—And you won't need Mr. Blake, or any of his experts, unless they desire to stay?

Mr. Richards.— No.

The Chairman.— They will understand that, but they are still under subpoena..

John B. Wood, recalled:

By Mr. Richards:

Q. You have been sworn? A. Yes, sir.

Q. And you at the last session of the Committee produced certain documents and papers relating to certain matters which we have been investigating and you have been subpoenaed to produce certain papers, letters and other documents in relation to John A. Hennessy. Have you brought them? A. Yes, sir.

Q. Will you please produce them? A. (Witness produces papers).

Q. Have you also produced vouchers for payments to Mr. Hennessy? A. I have. (Producing same.)

Q. These documents which you have produced are the original documents on file in the Comptroller's office in relation to Mr. Hennessy, his appointments, resignation, and so forth? A. They are, yes, sir.

Mr. Richards.— I ask to have that marked in evidence, these papers which are produced.

(The papers referred to were marked Exhibit 13 of this date, consisting of the following papers:)

"EXHIBIT 13.

"ALBANY, *July* 1, 1913.

"Hon. WILLIAM SOHMER, *State Comptroller, Albany, N. Y.:*

"DEAR SIR:— Mr. John A. Hennessey resigned as Executive Auditor in this Department on May 1, 1913, of which fact you have been heretofore advised.

"You are hereby officially notified that Mr. Samuel Bruckheimer of New York City, has been appointed by me as such Executive Auditor, to fill the vacancy caused by Mr. Hennessey's resignation, as of date of May 1, 1913.

"I desire to have the records in this Department and your Department accordingly show that Mr. Samuel Bruckheimer has been and now is the Executive Auditor by my appointment, since May 1, 1913, and entitled to salary or compensation as such from May 1, 1913, at the rate of $4,000 per annum.

"By this communication I desire to officially notify you that Mr. Bruckheimer was duly and regularly appointed by me as Executive Auditor in this Department at the salary of $4,000, per annum, from and after May 1, 1913, and request that you make the records show and that you take such action as will make the proper entries in your records concerning such appointment.

"Yours very truly,
"(Sgd) WM. SULZER."

"ALBANY, *April* 5, 1913.

"*To the Honorable, The State Comptroller, Albany, N. Y.:*

"DEAR SIR.— I desire to notify you that under Section 8 of the Executive Law, I was appointed by Governor Sulzer as a Special Commissioner, to serve without compensation, to investigate the management and affairs of the State Commission of Highways.

"On March 14th I appointed Mr. John Martin of New York City, an expert in road engineering, at a daily stipend of $25, together with an allowance of $6 a day for maintenance. His employment is to continue until further notice.

"On Thursday, April 1st, I appointed Mr. George R. Smith, of New York City, a certified accountant, to examine the books of the Highway Commission and the payments through the various county offices, at a salary of $20 per day, and maintenance of $6 per day.

"May I request you to do whatever is necessary to facilitate the certification of their accounts for services when submitted? It is understood that the sums herein mentioned are all that are to be paid the men named, except traveling expenses in case they should be assigned to certain sections of the State.

"Yours sincerely,
"(Sgd) JOHN A. HENNESSEY."

"ALBANY, *May* 16, 1913.

"Hon. WILLIAM SOHMER, *Comptroller:*

"DEAR SIR.— I beg to advise you that the Governor has received the resignation of John A. Hennessy, as Executive Auditor, of date of May 1st.

"Yours sincerely,
"CHESTER C. PLATT,
"*Secretary to the Governor.*"

"ALBANY, *June* 13, 1913.

"Hon. WILLIAM SOHMER, *State Comptroller, Albany, N. Y.:*

"DEAR SIR.— I send you herewith a copy of certificate of appointment issued by Governor Sulzer, appointing John A. Hennessy, Henry L. Stoddard and Ernest Harvier as commissioners, pursuant to Section 8 of the Executive Law, to examine and investigate the management and affairs of the Commissioners of the Palisades Interstate Park.

"Very truly yours,

"(Sgd) CHESTER C. PLATT,

"*Secretary to the Governor.*"

"ALBANY, *April* 5, 1913.

"Hon. WILLIAM SOHMER, *State Comptroller, Albany, N. Y.:*

"DEAR SIR.— I would inform you that pursuant to Section 8 of the Executive Law, Governor Sulzer on March 25th appointed John A. Hennessy as a Special Commissioner to examine and investigate the management and affairs of the State Commission of Highways and the Department of Highways, also the office of the State Superintendent of Highways as formerly constituted and the Commissioner of Highways. Enclosed herewith is a copy of such appointment.

"Very truly yours,

"CHESTER C. PLATT,

"*Secretary to the Governor.*"

"ALBANY, *June* 10, 1913.

To the Honorable The Comptroller, State of New York:

"SIR.— This is to certify that John A. Hennessy entered into the employment in the Executive Department on January 1st, and that the creation of the title of Executive Auditor thereafter was in line with the confidential position he was selected to fill.

"Yours truly,

"(Sgd) WM. SULZER."

ALBANY, *January* 30, 1913.

Hon. WILLIAM SOHMER, *State Comptroller, Albany, N. Y.:*

"DEAR SIR.— The following resolutions were adopted at a meeting of the Trustees of Public Buildings on Thursday, January 30, 1913:

"The Trustees of Public Buildings having ascertained that the method of audit of accounts presented to the Trustees of Public Buildings has been the audit of said accounts by the Auditor of Accounts to the Trustees of Public Buildings, certified by the State Architect, and further certified by the Trustees themselves, and as thus audited and certified presented to the Comptroller; and such system not being deemed advantageous, the Speaker, the Hon. Albert E. Smith, moved the adoption of the following resolution:

"Resolved, That the Executive Auditor with the Auditor of Accounts to the Trustees of Public Buildings be and hereby are directed and required to carefully examine, investigate and audit all bills, claims and accounts presented to the Trustees of Public Buildings for all work done, materials or supplies furnished and indebtedness of every kind contracted for or incurred by or through the Trustees of Public Buildings, and that they report thereupon to the Trustees and attach their approval to all such bills, claims and accounts found correct and properly payable, and that the Secretary to the Trustees of Public Buildings certify the said accounts as audited by said Executive Auditor and Auditor of Accounts and thereupon transmit the same to the State Comptroller for investigation and audit by the State Comptroller according to the auditing power of the said State Comptroller.

"The Speaker thereupon offered and moved the adoption of the following resolution:

"Resolved, That the Secretary of the Trustees of Public Buildings transmit to the Comptroller of the State a certified copy of the resolution adopted relating to the audits of accounts and the certification thereof, just adopted by the Trustees of Public Buildings, with the request of the Trustees of Public Buildings to the State Comptroller that the method of audit and the certification of accounts provided in said resolution, so far as the Trustees of Public Buildings are concerned, be approved and adopted by the State Comptroller.

"The Lieutenant Governor seconded the motion.

"The Chairman stated and put the question and all the Trustees voting in the affirmative, declared the motion and the resolution duly adopted."

"The Lieutenant-Governor offered the following resolution which was unanimously adopted:

"Resolved, that the Executive Auditor shall have authority to direct and supervise the work of the Auditor to the Trustees of Public Buildings, and that for this work he shall receive one thousand dollars a year in addition to his compensation as Executive Auditor."

Very truly yours,
(Sgd) CHESTER C. PLATT,
Secretary to the Trustees of Public Buildings.

STATE OF NEW YORK,

EXECUTIVE CHAMBER,

ALBANY, *January* 21, 1913.

Hon. WILLIAM SOHMER, *State Comptroller, Albany, N. Y.:*

DEAR SIR.— I have the honor to inform you that Governor Sulzer, pursuant to resolutions passed by the Civil Service Commission creating the position of Executive Auditor, has appointed John A. Hennessy, of New York City, to the aforesaid position, at an annual salary of $4,000.

Very respectfully,
(Sgd) CHESTER C. PLATT,
Secretary to the Governor.

Entered.

STATE OF NEW YORK,

EXECUTIVE CHAMBER,

ALBANY, *June* 2, 1913.

Hon. WILLIAM SOHMER, *State Comptroller, Albany, N. Y.:*

DEAR SIR.— Enclosed please find approved by the Governor, statement of John F. Hennessy, County Clerk.

Very truly yours,
(Sgd) E. G. SCHERMERHORN,
Military Secretary.

(Received June 4, 1913, Comptroller's office, June 4, 1913).

879.
May 27, 1913.

Executive Department — Investigation of State Departments, etc.— Chapter 2, Laws 1913.

John A. Hennessy, Commissioner, for cash advanced for expenses investigating State Department of Highways $400 00

Dated at Albany, N. Y., *May* 26, 1913.

To the Comptroller of the State of New York, Albany, N. Y.:

Dear Sir.—The Commissioner appointed to investigate the State Department of Highways requires for immediate use for expenses the sum of ($400) four hundred dollars from the funds provided by chapter 2, Laws of 1913, or joint resolution of the Legislature adopted ....., 19.., the same to be accounted for as provided by the conditions and terms set forth on the back of this receipt. The receipt of the same is hereby acknowledged. Make check to the order of John A. Hennessy, Commissioner.

879.

Approved. Governor. Paid May 27, 1913.
(Sgd) WILLIAM SULZER.

Approved:
Edwin S. Hain,
Deputy Comptroller.
Charge Executive Dept.

Investigation of State Depts., etc., chap. 2, 1913. (Warrant No. 879. Paid May 27, 1913. Vouchers.)

STATE OF NEW YORK,

Executive Chamber,

Albany, *Jan.* 21, 1913.

Hon. William Sohmer, *State Comptroller, Albany, N. Y.:*

Dear Sir.— I have the honor to inform you that Governor Sulzer, pursuant to resolutions passed by the Civil Service Commission creating the position of Executive Auditor, has ap-

pointed John A. Hennessy, of New York City to the aforesaid position, at an annual salary of four thousand ($4,000) dollars.

Very respectfully,

(Sgd) CHESTER C. PLATT,

Secretary to the Governor.

(Entered.)

April 11, 1913.

Mr. John A. Hennessy, *Executive Auditor, Executive Department, Albany, N. Y.:*

Dear Sir.— The enclosed account amounting to $33 was delivered in this office by Mr. Thomas Torpy, with a request that the same be examined to see if it is correct.

We find that it complies with the rules of the Department with the exception of the Pullman coupons which you have explained were mislaid. As there is nothing on the account to indicate from what appropriation payment should be made, it is presumed it was merely submitted for an examination and not for payment. We find that it is in form for payment and it can be submitted for payment with the next schedule.

Yours very truly,

Comptroller.

JBW/JL
Enclosure.

May 28, 1913.

Major E. G. Schiermerhorn, *Military Secretary, Executive Chamber, Albany N. Y.:*

Dear Sir.— I am returning herewith account of George R. Smith, for services and expenses rendered under authority of John A. Hennessy, Commissioner, to investigate Highway Department, under Section 8 of the Executive Law.

I note that Mr. Smith has charged for expenses at the rate of $6.00. Section 12 of the Finance Law provides that the dates and items of each expenditure shall be given, also the point of starting and destination, distance traveled and the nature of the business for the performance of which the expense is incurred.

If you will have Mr. Smith prepare a statement and attach to the coupon, giving this information, and have the account certified by the Civil Service Commission, the matter of payment will

then be taken up. The account need not be made over but an itemized statement attached will be sufficient.

Very truly yours,

Comptroller.

JBW/JL
Enclosure.

STATE OF NEW YORK,

EXECUTIVE CHAMBER.

Received April 7, 1913, Comptroller's Office, State of New York.

To All to Whom these Presents Shall Come, Greeting:

Know ye, that pursuant to Section 8 of the Executive Law, I have appointed, and by these presents do appoint JOHN A. HENNESSY of New York City, as a Special Commissioner to serve without compensation, to examine and investigate the management and affairs of the State Commission of Highways as constituted under Chapter 30 of the Laws of 1909, as amended by Chapter 646 of the Laws of 1911, and Chapter 83 of the Laws of 1912; and the Department of Highways constituted under Chapter 80 of the Laws of 1913, including the office of the former "State Superintendent of Highways," and of the "Commissioner of Highways."

Said John A. Hennessy is hereby empowered to subpœna and enforce the attendance of witnesses; to administer oaths and examine witnesses under oath and to require the production of any books or papers deemed relevant or material.

And I do hereby give and grant unto the said John A. Hennessy, all and singular, the powers and authorities which may be given or granted unto a person appointed by me for such purpose under authority of the statute aforesaid.

In witness whereof, I have subscribed my name to these presents and caused the privy seal of the State to be (L. S.) affixed hereto at the Capitol in the city of Albany, this twenty-fifth day of March in the year of our Lord one thousand nine hundred and thirteen.

By the Governor: WM. SULZER.

CHESTER C. PLATT,
Secretary to the Governor.

Q. Have you produced certain papers and documents relating to the contract for work on the Capitol, or work done on the Capitol by Callanan & Prescott and vouchers paid thereunder? A. I have.

Q. Will you please produce those? A. (Witness produces papers.)

Q. I only want those that have been approved or O. K'd by Mr. Hennessy in some capacity or other. Please identify those? A. These are approved by Mr. Hennessy as executive auditor (indicating three sets of papers) and these are approved by Mr. Hennessy as supervising auditor (indicating).

Mr. Richards.— I now offer in evidence certain accounts of Callanan & Prescott, approved by John A. Hennessy, approved in his capacity as executive auditor.

(Papers were received in evidence and marked Exhibits 14, 15 and 16 of this date, consisting of three separate sets of papers.)

Mr. Richards.— I offer in evidence three vouchers approved by Mr. Hennessy as supervising auditor to the Trustees of Public Buildings, relating to Callanan & Prescott.

(Papers were received in evidence and marked Exhibits 17, 18 and 19 of this date, consisting of three separate sets of papers.)

Q. Have you produced the warrants on which Mr. Hennessy was paid in his various capacities? A. You mean his salary warrants?

Q. Yes. A. They are in the Treasurer's office.

Q. I call your attention to one particular voucher or document, being one sheet of Exhibit 13 signed by William Sulzer directing you to pay $400 to John A. Hennessy, May 26, 1913, stamped paid May 27, 1913, providing for the use of $400 for expenses from the funds approved by chapter 2, Laws of 1913, and on the back of it this provision: "On or before the 15th day of each and every month unless otherwise provided for a sworn statement of account covering the previous calendar month is to be made on a form prescribed by the Comptroller, and filed in his office and to be accompanied by the original detailed voucher covering all expenditures, such vouchers to be numbered consecutively."

Has Mr. Hennessy ever filed anything in the way of an account or voucher for the expenditure of that $400? A. He has not.

Mr. Richards.— That is all for the present. Thank you, Mr. Wood.

(Witness excused.)

Mr. Richards.— Is the Treasurer's office representative here?

Mr. Blauvelt.— Yes, sir.

Mr. Richards.— Please take the stand.

Isaac Blauvelt, was called as a witness and being duly sworn, testified as follows:

By Mr. Richards:

Q. Mr. Blauvelt, you are employed in the State Treasurer's office? A. Yes, sir.

Q. And pursuant to a subpoena issued by this Committee have you produced a warrant with canceled check to John A. Hennessy under date of May 27, 1913? A. John A. Hennessy as commissioner.

Q. As commissioner? A. Yes, sir.

(Witness produces papers.)

Q. And these you produced from the files of your office? A. Yes, sir.

Q. The original records and the check canceled? A. Yes.

Mr. Richards.— I offer those in evidence.

(The warrant and canceled check were marked Exhibits 20 and 21 respectively of this date.)

Q. Referring to Exhibit 21, I ask you to read the endorsements on the check? A. John A. Hennessy, Commissioner; John Keeler Sons by William Rausch, Attorney.

Q. What does the stamp show as to what was done with it? A. The check was made to the order of John A. Hennessy as commissioner in the sum of $400, and the stamp on the face of it shows that it was cashed by the first teller in the National Commercial Bank on the 28th day of May, the day succeeding the date of the check.

Q. In other words, this check was never deposited in any bank or trust company? A. No, sir.

Q. Just simply cashed? A. Yes, sir.

Mr. Richards.— That is all, thank you, Mr. Blauvelt.

(Witness excused.)

Mr. Richards.— Is the Civil Service Commission's representative here?

Mr. Saxton.—Yes.

Harold M. Saxton, called as a witness, and being duly sworn, testified as follows:

By Mr. Richards:

Q. You have been subpoenaed by this Committee to produce the records of the Civil Service Commission relating to the application for exemption of position with your Commission, the record showing the action of the Commission, and the date of the approval of the Commission's action by the Governor, in relation to John A. Hennessy? A. Yes, sir.

Q. Have you produced that record? A. I have. (Witness produces papers.)

Q. These notations on the yellow carbon refer to pages in the minutes? A. Yes.

Q. These are the original records of the applications and so forth that were referred to? A. Yes, sir.

Q. And all that you have? A. Yes, sir.

Q. Is there anything in this record that is not stated in the way of a copy or repetition in the other papers produced? A. These are the official minutes of the Commission.

Q. Simply showing the action of the Commission? A. Yes.

Q. That action is indicated in those papers, the substance of it? A. Yes.

(Witness excused.)

Mr. Richards.— I offer these papers in evidence.

(The papers referred to were received in evidence and marked Exhibit 22, consisting of the following sheets:)

"STATE OF NEW YORK,

"EXECUTIVE CHAMBER,

"ALBANY, *January* 17, 1913.

"*To the Honorable, The State Civil Service Commission, Capitol, Albany, N. Y.:*

"Gentlemen.— In order to provide for greater care in the auditing and paying of bills which are subject to approval by me, and to investigate, as far as possible, the needs for appropriations, which may be asked by departments or institutions, I desire to establish in this office, a new position under the title of Executive Auditor.

"Such Auditor will be required to perform special duties relating to financial matters and such other duties as I may, in my discretion, assign to him, all of which will be of a highly confidential character.

"In my opinion, examination for this position is not practicable and I respectfully request that you take such action as may be necessary to classify the position mentioned in the exempt class.

"The salary will be sufficiently large to command the services of a man of high standing in the community and one whom I know personally to be fully qualified to perform any of the important duties required.

"Very respectfully,

"(Sgd) WM. SULZER."

"*January* 20, 1913.

"HON. WILLIAM SULZER, *Governor, Executive Chamber, Albany, N. Y.:*

"DEAR SIR.— I have to advise you that at a meeting of the State Civil Service Commission held January 18, 1913, a resolution was adopted, pursuant to your request, classifying in the exempt class the position of executive auditor in the office of the Governor.

"Enclosed please find copies of resolution in this case for your approval.

"Yours very respectfully,

"*Secretary.*

"B/H.

"Enc. See Minutes 1913, p. 47."

"STATE OF NEW YORK,

"STATE CIVIL SERVICE COMMISSION,

"ALBANY.

"At a meeting of the State Civil Service Commission held January 18, 1913, it was on motion

"*Resolved,* That, subject to the approval of the Governor, the classification of positions in the exempt class in the office of the Governor be amended by adding thereto the words 'executive auditor,' competitive or non-competitive examination for said position being found to be not practicable.

"Attest:

"JOHN C. BIRDSEYE,

"*Secretary.*

"Approved January 20, 1913.

"WILLIAM SULZER,

"(Seal.) "*Governor.*"

"STATE OF NEW YORK,

"EXECUTIVE CHAMBER,

"ALBANY, *January* 21, 1913.

"*To the Honorable, The State Civil Service Commission, Capitol, Albany, N. Y.:*

"GENTLEMEN.— You are hereby notified that on this date Governor Sulzer appointed John A. Hennessy, of New York City, to the newly created position of Executive Auditor, at an annual salary of four thousand ($4,000) dollars.

"Very respectfully,

"CHESTER C. PLATT,

"*Secretary to the Governor.*

"O. K. Exempt J. W. R.

"Entered R. T. J."

"STATE OF NEW YORK,

"EXECUTIVE CHAMBER,

"ALBANY, *January* 30, 1913.

"*State Civil Service Commission, Albany, N. Y.:*

"GENTLEMEN.— The Trustees of Public Buildings at their meeting held to-day, adopted the following resolutions:

"'*Resolved,* That Mr. Henry W. Garfield be continued as Auditor to the Trustees of Public Buildings, at a salary of $2,500 per annum.'

"'*Resolved,* That the Executive Auditor shall have authority to direct and supervise the work of the Auditor to the Trustees of Public Buildings, and that for this work he shall receive $1,000 a year in addition to his compensation as Executive Auditor.'

"Very truly yours,

"CHESTER C. PLATT,

"*Secretary to the Trustees of Public Buildings.*

"McM.

"Entered F. M. D."

"STATE OF NEW YORK,

"EXECUTIVE CHAMBER,

"ALBANY, *June* 16, 1913.

"*To the Honorable, State Civil Service Commission, Albany, N. Y.:*

"GENTLEMEN.—I hereby submit for the approval of the Civil Service Commission the appointment of Mr. John A. Hennessy as Supervising Auditor to the Trustees of Public Buildings at a salary of one thousand dollars per annum, to take effect February 1st, under the resolution passed January 30th, by the Trustees of Public Buildings.

"Enclosed please find a copy of that resolution.

"Very truly yours,

"CHESTER C. PLATT,

"*Secretary to the Trustees.*"

"STATE OF NEW YORK,

"EXECUTIVE CHAMBER,

ALBANY.

"The Lieutenant-Governor offered the following resolution which was passed at the meeting of the Trustees of Public Buildings held in the Executive Chamber, Thursday, January 30, 1913.

"'*Resolved,* That the Executive Auditor shall have authority to direct and supervise the work of the Auditor to the Trustees of Public Buildings and that for this work he shall receive $1,000 a year in addition to his compensation as Executive Auditor.'

"Correctness certified,

"CHESTER C. PLATT,

"*Secretary.*"

"*June* 19, 1913.

"Hon. CHESTER C. PLATT, *Secretary, Trustees of Public Buildings, Executive Chamber, Albany, N. Y.:*

"MY DEAR SIR.—Your communication of June 16th, transmitting copy of resolution adopted by the Trustees of Public Buildings January 30, 1913, relative to the employment of the Executive Auditor to supervise the work of the Auditor to the Trustees of Public Buildings, was considered at a meeting of the State Civil Service Commission held yesterday. On motion I was directed to draft proper resolution covering the employment. Accompanying your letter was a payroll for the services of Mr. Hennessey from February 1st to June 1, 1913, amounting to $333.32. By the resolution, the Executive Auditor is to receive compensation at the rate of $1,000 a year for the services rendered to the Trustees of Public Buildings. Our records show that Mr. Hennessy resigned the position of Executive Auditor May 1, 1913. It would seem, therefore, as though the payroll submitted should be for a period of three months, February 1st to May 1, 1913. If there is any error in this matter, will you kindly correct it and advise the Commission at your earliest convenience. The payroll referred to is enclosed herewith.

"Yours very respectfully,

B/C. "*Secretary.*"

"*June* 19, 1913.

"Hon. CHESTER C. PLATT, *Secretary, Trustees of Public Buildings, Albany, N. Y.*

"DEAR SIR.— Your communication of June 16, relative to the appointment of John A. Hennessy, executive auditor, to direct and supervise the work of the Auditor of the Trus-

tees of Public Buildings, with additional compensation at the rate of $1,000 per annum, was presented to the State Civil Service Commission at a meeting held on the 18th instant. On motion, the following was adopted:

"WHEREAS, It appears that by resolution of the Board of Trustees of Public Buildings adopted January 30, 1913, the Executive Auditor in the office of the Governor, shall have authority to direct and supervise the work of the Auditor to the Trustees of Public Buildings, and that for such service he shall receive $1,000 a year in addition to his compensation as Executive Auditor.

"Therefore be it

"*Resolved*, That the Secretary be and hereby is instructed to approve the accounts of the Executive Auditor for such additional service from time to time as presented.

"The account of Mr. Hennessy for services in this connection for the months of February, March and April have been approved and returned to you to-day.

"Yours very respectfully,

"*Secretary.*

"B/H

"See Minutes 1913, page 521."

"STATE OF NEW YORK,

"DEPARTMENT OF HIGHWAYS.

"ALBANY, *May* 7, 1913.

"(Stamped: N. Y. Civil Service Commission, Received May 7, 1913.)

"*State Civil Service Commission, Albany, N. Y.*

"GENTLEMEN.— I hereby request that the following positions in this Department be classified in the exempt class of the State Civil Service classifications:

"1st: One Confidential Agent to the Commissioner.

"2nd: One Confidential Deputy for the Adirondack Division of the State under the Commissioner.

"The claim for exemption of these positions is made under Sub-division 4, Section 13 of the Civil Service Law.

"Competitive or non-competitive examination is not practicable for filling said positions.

"The reasons why examination is impracticable are as follows: First, Confidential Agent is a position which I desire to fill so that I can utilize the party filling the position in examining into contracts, specifications and the condition of the roads in the State and the nature of this I desire to have confidential between myself and the employee. The same applies to the second position that of Confidential Supervisor of the Adirondack Division of the State.

"The work of the Department is now under the head of a single Commissioner, the Legislature this year having abolished the Commission of three members and appointing a single Commissioner in place thereof. Grave charges have been preferred against the administration of the Department in the construction, building and maintenance of roads and I desire these positions so that I can have absolutely confidential reports in connection therewith.

"I would request immediate action on these appointments so that the work of the Commission entrusted to these employees may be started at once.

"Yours very truly,

"J. N. CARLISLE,

"Commissioner of Highways."

"May 9, 1913.

"Hon. John N. Carlisle, *Commissioner of Highways, Albany, N. Y.:*

"Dear Sir.—Your communication of May seventh, relative to classification in the exempt class of the position of confidential agent to the commissioner, and that of confidential deputy for the Adirondack division, was read at a meeting of the State Civil Service Commission held May seventh, at which time you appeared and explained the application. On motion it was decided to grant the request, substituting the two new places for two that are already classified as exempt

but not filled. Resolution on this subject has been transmitted to the Governor and as soon as he acts thereon you will be duly advised.

"Yours respectfully,

"*Secretary.*"

"B/VV

"See Minutes 1913, pages 409 and 410."

"May 9, 1913.

"Hon. William Sulzer, *Governor, Executive Chamber, Albany, N. Y.:*

"Dear Sir.— By direction of the State Civil Service Commission, I transmit to you herewith for consideration and approval, copies of resolution adopted at a meeting held May 7th, classifying in the exempt class in the Department of Highways, two new positions, viz: confidential agent to the Commissioner; confidential deputy for the Adirondack Division, in lieu of two exempt places which are not now filled, viz.: secretary to Commissioner Bensel; secretary to Commissioner Peck. This action is taken upon application of Commissioner of Highways Carlisle, under date of May 7, in which he certifies that competitive or non-competitive examination is not practicable.

"This action in nowise increases the number of exempt places in the department, which is now limited to fifteen.

"Yours very respectfully,

"*Secretary.*

"B/H"

STATE OF NEW YORK,

State Civil Service Commission,

Albany.

At a meeting of the State Civil Service Commission held May 7, 1913, it was on motion:

"Resolved, That, subject to the approval of the Governor, the classification of positions in the exempt class in the De-

partment of Highways, be amended by striking out the words ' one secretary to each Commissioner and the Superintendent of Highways,' and inserting in lieu thereof the words ' Secretary to the Commissioner; confidential agent to the Commissioner; confidential deputy for the Adirondack Division;' competitive or non-competitive examination for said positions being found to be not practicable.

Attest:

JOHN C. BIRDSEYE,
Secretary.

Approved May 17, 1913.

WM. SULZER,
Governor.

(Seal)

" May 19, 1913.

" Hon. John N. Carlisle, *Commissioner of Highways, Albany, N. Y.:*

" Dear Sir.— I have to inform you that the following resolution adopted by the State Civil Service Commission May 7, 1913, was approved by the Governor May 17, 1913:

" Resolved, That, subject to the approval of the Governor, the classification of positions in the exempt class in the Department of Highways, be amended by striking out the words ' one secretary to each Commissioner and the Superintendent of Highways,' and inserting in lieu thereof the words ' secretary to the Commissioner; confidential agent to the Commissioner; confidential deputy for the Adirondack Division;' competitive or non-competitive examination for said positions being found to be not practicable.

" Kindly notify the Commission of the appointments to the positions referred to by the above resolution, giving names, titles, dates and salary.

" Yours very respectfully,
" *Secretary.*

" B/H "

John A. Hennessy, called as a witness and being duly sworn, testified as follows:

By Mr. Richards:

Q. Mr. Hennessy, where do you reside? A. 590 St. Marks avenue, Brooklyn.

Q. Is that the house you have recently bought? A. Yes, sir; that my wife bought, the same thing.

Q. And you have been in Albany since about the first of the year? A. The day before.

Q. And since the first of January what official positions have you held under the State government? A. I was executive auditor from the first of January until the first of May. On or about the 29th of January the Trustees of Public Buildings passed a resolution that the executive auditor should have supervision over the accounts of the Trustees of Public Buildings, allotting therefor $1,000 a year. On the first of May I was appointed confidential agent to the Commissioner of Highways.

Q. You have also held some special commissionership for investigations, have you not, by authority of the Governor? A. I do now.

Q. What ones do you hold now? A. I am Special Commissioner to investigate the contracts in the Highway Department which were completed or under completion, both repair and maintenance contracts and the construction of highways up to or immediately after the beginning of Governor Sulzer's administration. I am also appointed as a Special Commissioner and Chairman to investigate and report upon the Palisades Commission.

Q. Anything else? A. Nothing else now.

Q. I show you a letter addressed to the Comptroller dated January 21st, and signed Chester C. Platt, Secretary to the Governor, and ask you whether that is the sole authority for your appointment as Executive Auditor (handing letter to witness)? A. (After examining) No.

Q. Did you have some other appointment? A. Well, first, the Governor, of course, could not appoint me to the place without an exemption, and he discussed that with the Commissioners, either before or immediately after the first of January and they agreed to that exemption. There was some delay as to the actual adoption of the exemption because the first title that was fixed was found to be similar to another title in the Governor's office. There was

some delay as to the exact time of the formal approval of the exemption. There were two titles fixed, one on the first of January, and one a few days later, and they were found to conflict with some others, and finally, perhaps in two weeks or so, the title of Executive Auditor was selected and approved by the Commission, that is, was selected by the Governor, or his counsel, and approved by the Commission.

Q. That application for the exemption was made under date of January 17th, to the Civil Service Commission, was it not? A. I could not tell you anything about that, Mr. Counsel, because I was away at that time. The first application, as I tell you, was made when the Governor sent for the Secretary to the Civil Service Commission, and asked him, I think the first of January, not the second, for the formula; and the name of the Confidential Examiner was selected then. The Civil Service Commissioners had to agree to approve it, but it was found there was a title in the office called Confidential Bill Examiner, so the matter went over until another name could be selected, and there was some other name selected — I don't recall it now — perhaps three or four days later, and it was found there was a title like that in the office, and the matter of the title went over, I don't know how long, a couple of weeks maybe; and either the Governor's counsel or somebody selected the other title, and when I returned to Albany, why, I learned that my title was Executive Auditor.

Q. What did you do in the way of official action between the first of January and the twenty-first day of January, when this appointment was sent into the Comptroller's office by the Governor? A. I was investigating matters for the Governor, not only, I might say, after I took office, but immediately before.

Q. You were investigating matters for the Governor before he took office? A. Yes, I was investigating matters for the Governor before he took office.

Q. And then your pay was dated back to January 1st, was it not? A. It was not dated back, Mr. Counsel. That is the time my work began.

Q. The position was not even created until the 21st of January? A. I think you are wrong about that, if you will look up the law. The position was created when the Civil Service Commissioners told the Governor they would approve that exemption, and he created the position.

Q. I ask you to look at the certified copy of the resolution

approved by the Governor. A. That is a formal resolution of the Civil Service Commission.

Q. That is only given the Comptroller — A. That is the formal resolution on the name Executive Auditor. They could not do it until they got the name.

Q. There was some other title you were going on before that? A. What I mean is, if you call the Comptroller's office they will tell you that the date of appointment, except in a statutory office where the date is set by statute, the date of appointment begins when the appointment of the officer is made. If thereafter the Civil Service Commission should decline to approve it, you have worked for nothing.

Q. Your idea is that the Governor was able to do it, however? A. It is not my idea. You ask the Comptroller's office, and they have the Attorney-General's opinion for it. In addition to that, as there has been an imputation made, even before I had Major Schermerhorn go over my check, I went to the Comptroller's office and stated the situation, and the First Deputy Comptroller, Mr. Harris, stated the appointment was effective from the date of appointment by the Governor or the appointing officer.

Q. Then on January 30th the resolution was passed by the Trustees of Public Buildings? A. The resolution was offered by Lieutenant-Governor Glynn.

Q. Now you and I won't — A. I thought I was answering your question.

Q. It is only a question of keeping it clear upon the record. That action was taken? A. Yes, sir.

Q. And this resolution was passed, was it not: "Resolved, that the Executive Auditor shall have authority to direct and supervise the work of the Auditor to the Trustees of Public Buildings and that for this work he shall receive $1,000 a year in addition to his compensation as Executive Auditor." A. That is correct.

Q. That was on January 30, was it not? A. Either January 29th or 30th, yes.

Q. (Showing witness a paper) The 30th? A. After examining) That would be it.

Q. Then, as you say, you took office as Confidential Agent in the Highways Department after this. What was the date when you took office there? A. Well, about the last week in April. Mr. Carlisle asked me if I would go over there and he said that

he would be extremely glad if I would go and he would like me to go in office at the same time that he went in, and that he intended to go in on or about the 1st of May, and after some discussion with him and with the Governor, I agreed to go.

Q. When did you actually take office under the title — ? A. I was just going to answer.

Q. All right, sir. A. I was out on the road in the investigation that I am conducting for the Highways Department, or rather, for the Governor in respect to the Highways Department, and when I returned Mr. Carlisle notified me that he had appointed me to take office from the 1st of May.

Q. This was about when? A. I should say it was about the 2d of May. I did not see Mr. Carlisle again except to take his instructions of any roads I was investigating, to find out in going over any roads under construction whether they were being constructed in relation to the specifications. I probably did not see him for a week later; I do not know.

Q. And then on July 1st, Mr. Samuel Bruckheimer was put in as Executive Auditor to date back as May 1st. A. You cannot prove that by me.

Q. I will read this letter. I ask to have this upon the record. (Reading.):

"*July* 1, 1913.

"Hon. WILLIAM SOHMER, *State Comptroller, Albany, N. Y.:*

"DEAR SIR.— Mr. John A. Hennessy resigned as Executive Auditor in this Department on May 1st, 1913, of which fact you have been heretofore advised.

"You are hereby officially notified that Mr. Samuel Bruckheimer of New York City, has been appointed by me as such Executive Auditor to fill the vacancy caused by Mr. Hennessy's resignation, as of date May 1, 1913.

"I desire to have the records in this department and your department accordingly show that Mr. Samuel Bruckheimer has been and now is the Executive Auditor by my appointment, since May 1, 1913, and entitled to salary or compensation as such from May 1, 1913, at the rate of $4,000 per annum.

"By this communication I desire to officially notify you that Mr. Bruckheimer was duly and regularly appointed by me as Executive Auditor in this department at the salary of $4,000 per annum from and after May 1, 1913, and re-

quest that you make the records show and that you take such action as will make the proper entries in your records concerning such appointment."

You say you resigned as Executive Auditor May 1, 1913? A. That is correct.

Q. I show you a voucher dated May 21, 1913, approved by you as Executive Auditor, and ask you whether that is your signature (handing voucher to witness). A. That is my signature.

Q. You were still acting as Executive Auditor? A. No.

Q. What was your signature there, what does that mean? A. I will tell you.

Q. All right, sir, please do. A. There was a question in the office whether the Supervising Auditor or rather the Executive Auditor acting as Supervising Auditor to the Trustees of Public Buildings, could sign any voucher until the Trustees of Public Buildings had met. They have not met yet. They may not decide to have Mr. Bruckheimer as Supervising Auditor or Executive Auditor with powers of a Supervising Auditor. When that was brought to me I informed the Auditor that I had resigned. Callanan & Prescott needed their money. I told the Governor what the situation was and he said he believed I was holding over until the Trustees of Public Buildings had passed on that question. It was then a question of whether the pay-roll of Mr. Bowe for public buildings should be signed, and he personally requested it, and whether those bills should be signed, and I think I have now the powers of Supervising Auditor to the Trustees of Public Buildings holding over, as a matter of fact, because no action has been taken by them.

Q. I again call your attention to this voucher that is dated May 21st, which shows that you signed as Executive Auditor, not as Auditor of the Trustees of Public Buildings, and ask you if you still adhere to that explanation? A. I do. You will find in some cases the Comptroller's office demanded the action of the Executive Auditor to those bills, because those bills belonged to the Trustees of Public Buildings, not to the Governor. I signed those bills purely in my capacity as Supervising Auditor to the Trustees of Public Buildings, not as Executive Auditor to the Governor.

Q. I show you another voucher dated June 12th, nearly six weeks after your so-called resignation, and ask you whether or not

that is your signature? A. I haven't any doubt about it. It comes from the Comptroller's office.

Q. And that you signed "Approved by John A. Hennessy?" A. Yes, sir.

Q. You originally had "Executive Auditor" and you struck out "Executive Auditor?" A. No.

Q. And put in Supervising Auditor? A. I did not strike out Executive Auditor.

Q. Somebody did? A. If you will let me answer I will tell you.

Q. Very good, tell me. A. That is the proper way. The auditor struck out that "Executive Auditor," knowing about my resignation, Mr. Garfield struck it out and had it ready for me to sign, and I wrote in "Supervising Auditor," because I then decided the law for myself.

Q. You were a law unto yourself on this proposition? A. No, I said I decided that law myself on this proposition, by virtue of the fact that I was holding over, there was no appointment made, and the bills could not be paid — the Comptroller would not pay them without my O. K. on them.

Q. Were there any other bills that required this signature except the Callanan and Prescott bills? A. Yes, I just testified that the auditor said the scrub women and janitors in public buildings could not be paid unless I signed Mr. Bowe's semi-monthly bill, and I signed it. I did not sign any bill that was not an emergency bill, that I know of.

Q. And can you tell us of any other vouchers that you can remember which you signed — I mean cases of bills, something that you can give us definitely, that you signed in this capacity, either as Executive Auditor or Supervising Auditor, except Callanan and Prescott bills? A. I just told you I signed at least one and possibly two semi-monthly bills of the Superintendent of Public Buildings, Mr. Bowe.

Q. The pay roll? A. Yes, and expense rolls.

Q. You are sure of that? A. That is my recollection.

Q. When you came to be paid you collected salary back to the first day of May as confidential agent in the Highway Department, did you not? A. Certainly.

Q. And you collected salary as Executive Auditor back to the first day of January, did you not? A. January to May.

Q. And as Supervising Auditor from February to May? A. Exactly.

Q. I ask you to look at Exhibit 21 of this date, Mr. Hennessy, on the back of that, and state whether or not that is your signature (handing Exhibit 21 to witness). A. (After examining.) Yes, sir.

Q. And that check which you received for expenses as Commissioner appointed to investigate the State Department of Highways — is that right, sir? A. Yes, sir.

Q. And at this time, according to you, you were being paid or had your pay back dated as Confidential Agent in the Department of Highways? A. You are wrong.

Q. Didn't you collect it from the first of May? A. Yes, but that has no reference to this. This is a check —

Q. I understand that. A. What was your question, Mr. Counsel?

Mr. Richards.— Read the question.

(The stenographer read the question as follows: "Q. And at this time, according to you, you were being paid or had your pay back dated as Confidential Agent in the Department of Highways?")

The Witness.— What do you mean, that I was drawing salary from the Highway Department as Confidential Agent when I received this check?

Q. No, you did not understand me. When you did get it, you had it dated back to the first of May? A. Who said so?

Q. Didn't you get it that way? A. I got it from the first of May. I did not have it dated back. I was employed from the first of May.

I object to the statement of your counsel that I had anything dated back. I did not even ask for my check. It was sent to me. I did not have anything to do with dating back checks. I am not in that business.

Q. I did not intend to say — A. Well, it is your language. It gets on the record and it looks kind of cool a year after when somebody reads it. Perhaps you didn't intend it —

Q. I will say so right now. A. But it is a misuse of the word.

Q. I ask you to look at a letter dated May 16, 1913, which according to the stamp was not received in the Comptroller's office until May 28th, referring to the fact that you had resigned as Executive Auditor of the date of May 1st, and ask you where and how it was that there was a delay of twelve days in transmitting that letter? A. The best testimony would be Mr. Platt's.

Q. You don't know of any reason? A. I haven't the slightest idea and don't know anything about it.

Q. Wasn't May 16th the day you recommended the approval of the bill which provided for the payment of Callanan and Prescott, the very day this letter was written? A. I cannot say, Mr. Counsel, but if it was, I can assure you it had no relation to this letter. Perhaps Mr. Platt sent that letter when he wrote it in the usual order of business.

Q. You remember sending that bill to the Governor and the circumstances under which it was done? A. What bill?

Q. The bill for a million and some odd dollars with regard to repairs on the Capitol? A. The bill you are talking about is the bill for two hundred and some thousand dollars.

Q. No, I don't refer to that. A. That was a bill where they had paid out their own money. They had been borrowing from the banks and were in a hurry to get it back.

The Chairman.— I think you are in error as to the amount, Mr. Counsel.

The Witness.— That money, Mr. Counsel, was money paid out by Callanan and Prescott a month before which they had borrowed from the bank. They had heavy carrying charges on it. It amounted to $200,000, and they were anxious to get it.

Q. Was not May 16th the time that bill was approved by the Governor which carried the appropriation it provided for? A. May 16th?

Q. Yes, sir. A. I don't believe it was approved until after the Legislature had adjourned.

The Chairman.— We had adjourned on the 3d.

Q. May 3d was the date of adjournment? A. I asked the Governor, and I guess Senator Frawley and others asked him to sign that bill. I asked him half a dozen times because these people were anxious for their money and had carrying charges. I don't remember when the Governor signed it.

Q. You don't remember the incident when the bill was signed in the Executive Chamber while a large hearing was going on in another matter, and the representative having charge of the bill walked in through the private secretary's office, and handed the bill to the Governor and it was signed by him? Were you present at that time? A. I walked into the Governor's private office.

Q. Through the private office of the Secretary's room? A. Nobody ever did that.

Q. Nobody ever did that? A. No.

Q. And then afterwards, before this letter of May 16th reached the Comptroller, you approved the accounts which permitted the payment of something over $200,000 to Callanan and Prescott, did you not? A. Yes. You will notice I approved after that date, too.

Q. But not as Executive Auditor? A. Well, anyway you like it.

Q. You changed your title from after the date of this letter, from Executive Auditor to Supervising Auditor? A. You will probably find Executive Auditor after that date if you look for it.

Q. You say probably, you are not sure of it? A. Why didn't you subpoena them?

Q. Are you sure of it A. I am not sure.

Q. I have got the papers here. You took the Callanan and Prescott — A. If you will tell me what you are trying to get at, Mr. Counsel, I will try and answer, and if you don't, I will plead guilty to anything you want to prove.

Q. I am asking you this, if you cannot give us some idea — A. I tell you now I never saw it before, I never heard of it before. It did not originate with me. I had nothing to do with it. Why don't you subpoena Mr. Platt and ask him?

Q. That is the only explanation you can give? A. I told you that once before when you asked me. I know nothing of it, nor its course, nor did I cause it to be written, nor did I know it was written.

Q. This check, Exhibit 21, for instance, as Commissioner in the Investigation of Highways, what did you do on that check? A. Well, the two engineers —

Q. I mean, what did you do; did you go down and cash it; won't you answer me? A. I want to answer so the Committee will understand and the newspaper men. The two engineers, the road builder, the chauffeur, and stenographer who have been working on this investigation without even the payment of their maintenance or their fares, or anything else, except such as I paid for them personally out of my pocket, went on strike about that day and said they would have to get cash as they went along, or they would not go any further. The Legislature had deprived the Governor of his usual investigating amount, and there was no

money in the Governor's account, and I sent the Military Secretary to the Governor over to the Comptroller's office to find if there wasn't any money. If there wasn't any more, I would have got some more, I suppose, and he said there was, and I had the Major attend to that. He attended to it and got $400. I went down and asked the gentleman in Keeler's, whom I don't know, but whom the newspaper men know — he is the manager there — to cash it; and the gentlemen who were going down to examine the road said $100 would do them for the time, and I handed them two $50 bills, and the amount has since been paid out to some gentleman, Mr. Joseph Kearns, acting as Treasurer of that. He has received $400; two fifty dollar bills, one check for $125, one check for $100, and one check for $75.

Q. You haven't accounted to the Comptroller's office for it, have you? A. Our account was very much bigger, and I thought we might eventually —

Q. Is that the best answer you can give us; you haven't accounted nor filed any vouchers for the expenditure of $400? A. I did not know until I heard you ask the Comptroller that it was necessary to file vouchers monthly. There is no mystery about it. I did not even collect it. As I told you, Major Schermerhorn went over and got it. The Governor signed it and the Major handed it to me.

Q. This is seven or eight weeks ago since you got it? A. I was subpoenaed at noon to-day. You can have an account of that from Mr. Kearns. I immediately telegraphed for an account. He received the entire $400. He is now before the grand jury down in Rockland county, so I had to telegraph him.

Q. You are the one that is responsible for it under the law? A. Of course, I will O. K. his vouchers. Under the law I will be responsible for his O. K. on them.

Q. You received the money, and you will be the one to submit the vouchers? A. You need not worry about that. The State owes me a great deal more on this investigation.

Q. You understand what you obligation, your duty is? A. I will carry it out. I want to say that if I had known that the statute is as it is, I would certainly have taken care of the matter.

Mr. Richards.— There are some other matters in regard to this which I want to take up later. We have not got the necessary documents for him, so I would like to suspend for the day.

The Chairman.— Are you finished with Mr. Hennessy?

Mr. Richards.— Yes.

The Chairman.— Do you want Mr. Hennessy?

Mr. Richards.— We are through with him for the present, and when we want him again we will subpoena him.

The Witness.— I would like to say I am under subpoena in Rockland County —

Mr. Richards.— Well, we will make our —

The Witness —and I may have to be there some time, and I do prefer, if the Committee and counsel would select a date because I also have a number of roads that I have been designated to see by the Commissioner of Highways, and I also have some roads that I have under investigation by the Governor; and I would rather not be tied up indefinitely, and I don't want to show the Committee any discourtesy.

The Chairman.— If they give you forty-eight hours that will give you notice?

Mr. Richards.— I think you can safely rely on the Committee and counsel not to inconvenience you unnecessarily.

The Witness.— There are none of those investigations that I could not lay aside for the moment, if I knew when I was to appear here.

The Chairman.— I do not know what counsel has in mind, so I cannot state for your benefit, but I think this can be understood; if you are under subpoena before the Grand Jury, or you are giving testimony in any proceeding of that kind, we will try to have it meet with your convenience.

The Witness.— All right.

The Chairman.— What else, Mr. Counsel?

Mr. Richards.— I understand Mr. Blake would like to go on the stand, but as I say, I want to go over this testimony which has been filed and which we have seen for the first time; and I suggest that we take an adjournment until to-morrow morning when we can take up Mr. Blake's report.

The Chairman.— Is Mr. Blake here?

Mr. Blake.— Yes.

The Chairman.— Will that be satisfactory, to-morrow morning?

Mr. Blake.— To-morrow morning.

Mr. Richards.—At 10:30.

The Chairman.— Yes. There will be no further proceedings to-day. All witnesses under subpoena will consider that they are still under subpoena and will be here to-morrow morning, except those that are excused.

Whereupon, at 3:53 P. M., the Committee took an adjournment until 10:30 A. M., July 16, 1913.

THE CAPITOL, ALBANY, N. Y.

JULY 16, 1913.

Pursuant to adjournment, the Committee met at 10:30 A. M.

Present:

For the Senate

Hon. JAMES J. FRAWLEY, *Chairman.*
Hon. SAMUEL J. RAMSPERGER.

For the Assembly

Hon. LAVERNE P. BUTTS.
Hon. WILSON R. YARD.
Hon. MYRON SMITH.

Appearances:

EUGENE LAMB RICHARDS, Esq., Counsel to the Committee.
MATTHEW T. HORGAN, Esq., Secretary to the Committee.

Mr. Richards.— May we proceed, now, Mr. Chairman?

The Chairman.— Yes, sir.

Mr. Richards.— Mr. Chairman, in view of the letter received from the Governor yesterday during the session of the Committee, I think the record should show clearly the change in the position of the Governor from July 10th to yesterday, and for that

purpose I wish to have appear upon the record the letter which was addressed to the Governor under date of July 9th, and his then reply to the Committee of July 10th, and for that purpose I offer in evidence for the record the letter which was written to Governor Sulzer, dated July 9th and signed by Hon. J. J. Frawley, Chairman of the Joint Legislative Investigating Committee, addressed to the Governor (reading):

"ALBANY, NEW YORK, *July* 9, 1913.

"Hon. WILLIAM SULZER, *Governor of the State of New York, Executive Chamber, Albany, N. Y.:*

"SIR.— On July 1st, while you were away from your office, a subpœna was served upon your Secretary to produce all original records, original reports and testimony filed with you by George W. Blake, as Special Commissioner for the investigation of prisons.

"Although Mr. Platt admitted upon the witness stand that he had been able to find some of these papers, he claimed that others could not be produced, and he refused to produce any papers called for by the subpœna.

"This Committee will have a hearing on July 15th at 10:30 A. M. and we desire to proceed further in regard to our investigation of State prisons, particularly in regard to Great Meadow prison. We respectfully request that you direct that all original and supplementary reports, documents, records and testimony in relation to Great Meadow, filed by Mr. Blake as Special Commissioner aforesaid, be transmitted to the Committee at that time, together with the original letter of March 14, 1913, addressed to Hon. William Sohmer, relating to expenses of Mr. George W. Blake.

"We also request that you transmit at the same time the original report with exhibits and testimony made by George E. Van Kennan and William Church Osborn, filed during the year 1911 among the records of the Executive Chamber, relating particularly to the said Great Meadow Prison.

"Respectfully yours,

"*Chairman Joint Legislative Investigating Committee.*"

I also ask to have spread upon the record the following letter received from the Governor in respect to that letter. (Reading):

"STATE OF NEW YORK,

"EXECUTIVE CHAMBER,

"ALBANY, *July* 10, 1913.

"Hon. JAMES J. FRAWLEY, *Chairman, etc., Senate Chamber, Albany, N. Y.:*

"DEAR SIR.— Your letter duly received. Am anxious to aid your Committee in its legislative work, in any way I can, and to that end have instructed the office force to produce before your Committee, through Mr. Blake, at the time specified, the letters and records you request in your communication.

"Very respectfully yours,
"WM. SULZER."

Mr. Richards.— Mr. Blake, just one question. Have you produced or have you in your possession the original letter of March 14, 1913, which has been called for in that letter which the Governor says he will produce through you?

Mr. Blake.— I have a copy of it.

Mr. Richards.— Have you the original?

Mr. Blake.— No.

Mr. Richards.— Have you been able to find your original report on Great Meadow prison?

Mr. Blake.— No. I have not looked for it.

Mr. Richards.— You have not looked for it?

Mr. Blake.— I have not looked for it. I would like to explain that that report was given to the Governor and sent by him to the printer.

Mr. Richards.— He speaks of having these letters transmitted through you. That is the reason I asked you particularly. Mr. Weller, will you take the stand, please.

Roy K. Weller, was called as a witness, and being duly sworn, testified as follows:

By Mr. Richards:

Q. Where do you live, Mr. Weller? A. Brooklyn, N. Y.

Q. And you are connected with Mr. Blake and his investigation, are you not? A. I am.

Q. And have been since the beginning? A. Yes, sir.

Q. In what capacity? A. Stenographer.

Q. And have you from time to time during the course of that investigation taken the evidence or testimony in your stenographic minutes and transcribed them from the time that this work began? A. I have.

Q. I show you what purports to be some testimony indorsed, "From Great Meadow, Comstock, New York, Governor's copy, subject, Prisons," and ask you to look at that and state whether or not you recognize that? A. I do.

Q. Are those the minutes which you yourself transcribed at the time that the witnesses named therein were called? A. Well, it is a transcript of my notes.

Q. Transcript of your notes? A. Yes.

Q. And will you just look through that and see if you are sure that is the correct testimony as transcribed by you of the evidence of the witnesses that were called in the investigation of Great Meadow Prison? A. I could not tell that by reading, because I don't know what the testimony was.

Q. You can identify whether or not those were the minutes? A. Oh, yes, those are the minutes.

Q. Referring again to that, I ask you whether or not that includes the testimony of all the witnesses that were examined and sworn by Mr. Blake at Great Meadow Prison, or in connection with the Great Meadow Prison investigation. Just run through them and make sure. A.— (After examining) So far as I can remember by going through this, yes. Of course, there may be some other testimony, but I recognize all of this. There may have been some more. If there is, Mr. Blake will show it.

Q. Have you your book with you? A. I think I have.

Q. Of Great Meadow? A. Yes.

Q. Well, we will just suspend with you for a minute, and give you an opportunity to look over your book. A. Will you let me have this for a minute?

Q. Yes. Look over your book.

(Witness excused.)

Mr. Richards.— Mr. Leeds, will you take the stand?

Henry Leeds, was called as a witness, and being duly sworn, testified as follows:

By Mr. Richards:

Q. Mr. Leeds, where do you live? A. New York City.

Q. And what is your address? A. 261 West 116th street.

Q. And what is your business or occupation? A. I am a manufacturer.

Q. You are a manufacturer? A. Yes.

Q. In what line? A. Steel belting for power transmission.

Q. Have you a business there in New York? A. I have.

Q. Where is your business located? A. 29 Broadway.

Q. And have you a factory? A. I have.

Q. Where is your factory located? A. Bridgeport, Conn.

Q. And what is the name of the concern? A. The — I have here (producing paper) a paper connected with the concern, the Flexible Steel Belting Company is the concern.

Q. Some company that you are interested in, is that it? A. Yes, a company.

Q. What is your position — what is the name of the company? A. The Flexible Steel Belting Company.

Q. What is your position with that company? A. I have no position with the company. I am a stockholder in the company and I organized the company.

Q. Then, except for your interest in the company as a stockholder you are not in that business? A. Well I am in an advisory capacity, yes.

Q. Before this Flexible Steel Belting Company business, in which you say you have an interest as a stockholder, what other business were you in? A. I am connected with the Standard Gas Power Company of Boston and Atlanta.

Q. What is your position with them? A. I represent them in New York.

Q. As sales agent or something of that kind? A. Sales agent, yes.

Q. And how long have you been connected with it in business? A. About a year and a half.

Q. And before that, what was your business? A. Well, Mr. Richards, I have been in business in New York for about 35 years, and since 1886 I have been a broker, selling lands, that is, timber lands in the south and I have organized one or two companies.

Q. Any other business? A. Just prior to this Standard Power Company —

Q. Did you organize that? A. No, I did not organize it. I was consulted about the organization, regarding the getting up of the prospectus and preparing the technical work connected with the company.

Q. What other business besides the belting business which you are a stockholder in and the gas? A. Well, I do a general brokerage business at 29 Broadway.

Q. I am trying to get at what has been your business experience as a business man, what your business experience has been and in what lines? A. How far back do you want me to go, Mr. Richards?

Q. Well, just as far back as you please. I want to get some facts. Give us the date, what business you were in? A. The first five years of my business life was in the banking business.

Q. What bank was that, and how long ago was that? A. 1876 to 1881.

Q. Now, next? A. I was —

Q. What were you, a clerk or cashier, say something of that kind? A. Well, I was rather young at that time. I was a clerk in the bank.

Q. Your next business experience? A. And I was six years manager for certain mining operations in Honduras, Central America, and South America.

Q. How long did that experience last? A. Six years.

Q. Were you located in Honduras? A. In Honduras, six years.

Q. Six years? A. I was manager there.

Q. Of a mining proposition? A. Yes.

Q. Now, next? A. I was after that secretary and treasurer of an accident insurance company.

Q. How long were you in that line of business? A. About five years.

Q. About what time was that, what date? A. That was about 1887 to probably 1893.

Q. And from 1893, what did you do then? A. I got into the talking machine business, as a manufacturer, and I was the treasurer of the largest concern manufacturing talking machines in the country.

Q. How long did that last? A. That lasted about fifteen years, although I was not president.

Q. What was the name of that. A. The Leeds & Catlin Company — C-a-t-l-i-n.

Q. What became of that business? A. The United States Supreme Court said that the Victor Talking Machine Company controlled the patent they alleged that we were manufacturing under, and we had to stop manufacturing.

Q. You had to go out of business by reason of that fact? A. Yes, at a loss of about two million, eight hundred thousand dollars.

Q. And when was that? A. That was about five years ago.

Q. And then from five years ago what have you done, except what you have mentioned, that is, with regard to the sale of timber lands and the organization or promotion of this — A. Belting Company.

Q. Belting Company; anything else? A. Well, after the Supreme Court said that I could not manufacture talking machines and records, I became a broker and sold timber lands, and I was, by the way, connected with a paper manufacturing concern in Boston.

Q. In what capacity was that, if you please? A. I was a director of that concern. I know something about paper making, and I became a director and was a stockholder in that concern. I put some money in it and bought some stock.

Q. When was that? A. That was about four years ago.

Q. Coming down to a little nearer to the present time. Any other business that you have been in? A. I think that is about all.

Q. Have you ever been a builder? A. Well, in Central America I built mills.

Q. For mining? A. For ore mining machinery.

Q. For stamping ore? A. Mining machinery.

Q. Any other experience that you have had in the building line? A. Building a house; that is all.

Q. Well, some of us have been fortunate enough to do that, too. So that is your experience as a builder, is it? A. As a builder, yes, Mr. Richards, that is about all.

Q. And you are Mr. Blake's brother-in-law? A. I am.

Q. What were you doing when Mr. Blake brought you into this matter of the investigation of prisons? What were you working at then? A. Why, I was trying to get the McAdoo tunnel people to buy some machines from the Standard Gas Power Com-

pany. I was trying to convince them that they would save money if they would use our method of producing gas, and used gas engines instead of steam engines, as they are now doing. It was a rather large contract, and I was working very hard on it.

Q. How long had you been working at that when Mr. Blake put you on this commission as one of his advisers? A. Why, Mr. Richards, I was working in a general way, with the Standard Gas Power Company for a number of years, and I was actively engaged there then.

Q. Were you under any salary from them? A. I was under a salary, yes.

Q. Do you mind telling us what that was? A. If I may correct myself, it was a drawing account, a commission.

Q. I know; that is very often the case. What was the commission? A. The drawing account was $200 a month, and a commission of 25 per cent. on anything I would sell.

Q. And Mr. Blake employed you at what rate? A. At $30 a week, including expenses.

Q. You were to pay your own expenses out of that? A. Yes, except railroad fare.

Q. And have you ever had any technical training as an accountant? A. I have.

Q. Where did you get that, Mr. Leeds? A. Well, I have been treasurer of a number of organizations and have been keeping books as such for probably thirty years.

Q. Yes. A. In different corporations.

Q. You have not made any specialty of that, but in the course of your business experience you have got used to books, and accounting matters? A. Well, I have studied accounting and claim I am familiar with practically all classes of accounting.

Q. In a practical way? A. All forms of accounting.

Q. Are you still employed by Mr. Blake? A. I am.

Q. You have been on the pay-roll ever since the second week after he took office? A. No, since the 29th of March.

Q. You succeeded Mr. Pierce? A. Exactly.

Q. When he retired as the accountant of the Commission, you took his place? A. I did.

Q. And you have had it ever since? A. Yes.

Q. Will you tell us what you are working at now? A. Well, the accounting work is finished, with the exception of Napanoch. I was at Napanoch for two days when I was called to Ossining.

Q. How long ago was that? A. Practically a month ago.

Q. You have been at Ossining for practically a month? A. Practically a month.

Q. What have you been doing there? A. Why, I was giving Mr. Osborne, who was in charge of the work there, before the Grand Jury, the data that I had taken at Sing Sing, and the — well, the data.

Q. That was all that you had been doing, as far as the commission's work is concerned, during the past month? A. I have not been engaged actively in any of the prisons during the past month.

Q. I mean that is the only work in connection with this investigation that you have been doing for a month, just advising Mr. Osborne and giving him any data you may have acquired during your investigation? A. No, I was at Sing Sing Prison practically every day securing information or data for presentment before the Grand Jury.

Q. Yes; in connection with that matter? A. In connection with that matter.

Q. Have you filed any report on Great Meadow Prison? A. Why, I had the data on Great Meadow Prison.

Q. No, now? Of course, I do not want to interrupt you, but I want to get, if I can, an answer to that question. A. I want to explain to you exactly what occurred. I had this Great Meadow data in pencil sheets which I read to Mr. Blake, and from which I assume that he took some of his data, but I have not those sheets now.

Q. Mr. Blake said in his testimony that one of the things he based it on was your report? A. That pencil data was my report.

Q. It was a pencil report —

Mr. Richards.— Mr. Blake, have you got that pencil report of Mr. Leeds'?

Mr. Blake.— No. It was verbal. Mr. Leeds made a verbal report.

The Witness.— It was not in the shape of a signed report.

Q. So that then there is nothing to show on the record what you told Mr. Blake, is there? A. I would be very glad to repeat what I told Mr. Blake.

Q. There is no record you made of anything you reported on

the Great Meadow proposition, so far as you were concerned? A. I have — I brought with me, Mr. Richards, certain memorandum that I made at the time on Great Meadow prison.

Q. What I am interested in, is what did you give Mr. Blake? A. Well, I have got the memorandum that I gave Mr. Blake.

Q. When he made his original report on Great Meadow Prison, dated April 9th? A. Yes, I have some of that from him.

Q. Well, where is it? Have you got it with you? A. Mr. Weller has it here.

Q. You suspend a moment, and I will try and get at it, and find out what you gave him. I only want what you gave to Mr. Blake. A. Yes. (Witness leaves the stand and secures papers.)

Q. Now, Mr. Blake testified at the hearing on the 3d of July that you were an expert in building materials, is that so? A. I could claim that I know the value of building materials; whether they are properly bought.

Q. Of course we can claim a great many things. What I want to get at is, is there any other basis for the statement that you are an expert on building materials other than what you have testified to, namely, that you have built some mills on your Honduras mining proposition, and had that house built? A. I have bought building materials for companies that I have been interested in.

Q. How much? A. Probably $50,000.

Q. What kind of materials? A. Cement, brick, some lumber.

Q. Cement, brick and lumber; you bought those? A. Yes.

Q. You never had anything to do with the construction of buildings, except such as you have described? A. No.

Q. I want to ask you this question: Did you attempt to tell Mr. Blake, your brother-in-law, the value of the construction of Great Meadow prison? A. I told him I did not think the entire proposition up there was worth over $500,000 as it stood; everything, Warden's house, roads, the buildings — I thought that an entire assembling of that prison could be put up for $500,000, and I think so now.

Q. And you made that statement on the basis of the experience which you have described? A. I did.

Q. And whatever that may be worth, it is based solely upon that proposition? A. That is simply my opinion.

Q. Yes. That is your opinion. You heard Mr. Burney's testimony yesterday, did you? A. I did.

Q. Did you see the specifications of this Great Meadow prison? A. I did.

Q. Did you analyze them? A. That is, I saw the contracts. I did not see the drawings, but I saw the contracts, of which we had duplicate originals.

Q. You saw the duplicate original contracts? A. The contracts, duplicate originals, just the same as you have here. They were signed in duplicate.

Q. Were you the one that handed those to Mr. Francisco? A. Why, I don't remember. I may have handed them to Mr. Francisco. I know that we were all together there, and we had all the contracts. I think there are seven contracts, including — that is, the two main contracts and the sub-contracts.

Q. And where did you get those from? A. They were in the office when I arrived in Albany.

Q. In Auburn? A. In Albany. When I arrived in Albany they were in the office.

Q. And they were a duplicate that was obtained from what office, do you know? A. They are duplicate originals, and they are marked as belonging to the Superintendent of Prisons.

Q. And did you look into those specifications? A. Not at once. I have looked at them very carefully.

Q. But you say whatever Mr. Francisco says, that he got the duplicates, or the duplicate original of this specification? A. Mr. Francisco received the duplicate originals of those specifications, the contracts. They have no copies with them.

Q. You did not check this thing up, the way that he rendered his report? A. No, but —

Q. To see whether he had these specifications right? A. No.

Q. You are sufficiently familiar with the plan of these contracts to know that the typewritten form is the controlling form in a contract, and that the printed specifications are simply the standard specifications, the alternatives of which are put in the typewritten form, do you not? A. Yes, I know the typewritten form governs.

Q. That governs? A. Yes.

Q. And did you look at this to see whether or not the typewritten form did not prescribe for the other specifications other than those testified to by Mr. Francisco? A. I did not look at that before Mr. Francisco made his report.

Q. But you have since, possibly? A. Oh, of course, it is very plain that Mr. Francisco was referring to the first contract executed.

Q. Then Mr. Francisco didn't have anything slipped over on him? A. Mr. Francisco had all of the contracts. He had the two main contracts, and all of the sub-contracts. All there. He had them for a day and a half.

Q. Here is one of the pencil memorandums which you have handed me as being some of the memoranda which you gave Mr. Blake, and I ask you from where you got these figures? A. From the books at Great Meadow.

Q. And those figures show a profit, do they not, of how much? A. $1,859.

Q. For what period? A. October 1, 1909, to March 1, 1911.

By Assemblyman Smith:

Q. What is that profit on? A. On the farm.

By Mr. Richards:

Q. I show you another sheet headed "Recapitulation," and ask you if that is in your handwriting, and whether or not that is one of the reports you handed to Mr. Blake? A. Yes, sir, it is.

Q. What is the profit shown on that and for what period? A. There is a profit here of $4,131.

Q. Did you go into the books and figure out if there was a loss? A. They kept their own books there in Great Meadow. These were kept in single entry by an inmate, and had never been brought into the account books of Great Meadow.

Q. That does not really answer my question. I want to get an answer to my question. A. I figured up the loss, yes, or the profit of the farm.

Q. What was the profit? A. There wasn't any profit if they charged as they should have done. They should have charged themselves with the hay they consumed, and they did not do that, and so there was an apparent profit on the books, when in reality, there was no profit.

Q. What was the difference in amount? A. It came out pretty even.

Q. So the farm is practically self-supporting? A. Just about; not making any money.

Q. Yes, about self-supporting? A. They are not making any money.

Q. I call your attention to page 9 of Mr. Blake's report, and

ask you whether you saw this before Mr. Blake sent it in, and filed it with the Governor. Now, please pay attention to it:

"The records of the prison make it appear as if the farm was making a profit, but the fact is that the loss has been between $5,000 and $6,500 a year."

Did you see that statement? A. I don't recall that I saw that particular statement.

Q. You were not authority for any such statement as that, were you? A. I presume I was. Mr. Blake depended on me for all the figures that he had in his report.

Q. But you just say now that the farm is practically self-supporting. Do you mean to say that you have changed your mind about it? A. No, but they kept no farm books there that were really correct, and they did not charge themselves with the hay which they consumed, and there were also a number of other things that they did not charge themselves with.

The Chairman.— Before you ask any further questions, I would like to ask Mr. Leeds a question.

By the Chairman:

Q. How many horses were there, Mr. Leeds? A. How many horses?

Q. Yes. A. I don't recall exactly, Mr. Frawley, but I think 18 or 20, something of that kind.

Q. What do you figure the hay worth to feed those horses for a year, how much a head? A. Well, I am afraid I cannot answer that.

Q. You cannot answer that? A. No.

By Assemblyman Smith:

Q. How many acres were there in the farm, about? A. Why, about 700 acres altogether.

Q. How much was there in meadow land that they would mow? A. I do not think that they had over 30 or 40 acres in meadow.

Q. Was there big grass growing on those meadows? A. We were there in April.

Q. Would it average over a ton per acre? A. Oh, I think it would.

The Chairman.—All right.

By Mr. Richards:

Q. I want to go back again to that question which I asked of you. Do you say now that the farm is self-supporting or that it loses five thousand or six thousand dollars a year? A. If proper charges were made against the farm for all the material that was taken by the prison, the farm would show a loss.

Q. Now, what did you mean when you said, on the books of the prison there was this apparent profit of, in one case, a profit of $1,859.08 for six months, and the other, $4,131 for a year but if proper charges were made against those figures, that the farm would come out even, didn't you say that? A. The — those —

Q. Now, before you go further. Did you not say that under oath here? A. I do not know as I did in just that way.

Q. Then we will have to return. I want to make sure. I will ask the stenographer to turn back to the statement — A. I said the farm would be about even, yes.

Q. Well, do you make a difference between the farm being even and losing between $5,000 and $6,000 a year? A. Mr. Richards, there were many items that were taken from that farm that were not charged.

Q. That does not answer my question. I want to be fair with you. I want to give you an opportunity to answer in any reasonable way, and I want to know if you make any difference between a farm being self-supporting and losing $5,000 or $6,000 a year, and being self-supporting on the basis that proper charges should be made? A. Why, of course it makes a difference.

Q. What did you want to change it for? A. Those figures there are not my figures. They are simply copied from the book.

Mr. Richards.— Read the testimony.

(The stenographer read the testimony as follows:)

"Q. Here is one of the pencil memorandums which you have handed me as being some of the memoranda which you gave Mr. Blake, and I ask you from where you got those figures? A. From the book at Great Meadow.

"Q. And those figures show a profit, do they not, of how much? A. $1,859.

"Q. For what period? A. October 1st, 1909, to March 1st, 1911."

"By Assemblyman Smith:

"Q. What is that profit on? A. On the farm.

"By Mr. Richards:

"Q. I show you another sheet headed 'Recapitulation' and ask you if that is in your handwriting, and whether or not, that is one of the reports you handed to Mr. Blake? A. Yes, sir, it is.

"Q. What is the profit shown on that and for what period? A. There is a profit here of $4,131.

"Q. Did you go into the books and figure out if there was a loss? A. They kept their own books there in Great Meadow. These were kept in single entry by an inmate and had never been brought into the account books of Great Meadow.

"Q. That does not really answer my question. I want to get an answer to my question. A. I figured up the loss, yes, or the profit of the farm.

"Q. What was the profit? A. There wasn't any profit if they charged as they should have done. They should have charged themselves with the hay they consumed, and they did not do that, and so there was an apparent profit on the books, when in reality there was no profit.

"Q. What was the difference in amount? A. It came out pretty even.

"Q. So the farm is practically self-supporting? A. Just about; not making any money."

Now, did you give that testimony? A. I did, yes.

Q. Is there any question about it?

The Chairman.— He says he did.

Q. Now, do you want to withdraw it? A. If you will permit me to say, Mr. Richards, when I spoke to Mr. Blake about that farm there I told him that there was a loss at the farm; that he had to take into consideration the fact that there was no money paid for labor, with the exception of the farmer that was hired, and that there was a great deal of stuff taken off the farm which was given to the prison, eggs and milk were sent to the Warden's house —

Q. Now, don't let us get into little details like that? A. The idea was that there was a loss. That is my opinion.

Q. I want you to be fair with me, and I am trying to be fair with you. A. I desire to be fair.

Q. I ask you whether or not you want to change your testimony in the language you used a minute ago, before I called your attention to Mr. Blake's report, that the farm is practically self-supporting? A. Well, that will depend, whether the farm is self-supporting on the way the accounts are kept there.

Q. Yes. We are asking you for your final determination. Making proper allowances, you said it would come out about even, did you not? A. It would come out about even as regards the accounts kept up there, but if it was kept as a farmer would keep his farm accounts, there was a loss. There would be no doubt in my mind about that.

Q. As the accounts were kept up there, there was a profit of $4,000 a year. You made certain deductions, said certain charges should be made, and then said it would come out even unless proper charges should be put in. Now, do you want to surcharge it some more with $5,000 or $6,000 a year? A. The results at Great Meadow were obtained from —

Q. No, now. I am not going to — I do not want to be unkind or to be curt with you, but I want to get an answer to that question.

Mr. Richards.— Please read the question. (The question was read by the stenographer as follows):

> "Q. As the accounts were kept up there, there was a profit of $4,000 a year. You made certain deductions, said certain charges should be made, and then said it would come out even, unless proper charges should be put in. Now, do you want to surcharge it some more with $5,000 or $6,000 a year?"

Mr. Richards.— Now, that is what I want to know.

The Witness.— When Mr. Blake made that statement —

Q. No, no. I am not asking you —

By the Chairman:

Q. Now, Mr. Leeds, answer. Do you desire to change your statement in regard to the $6,000 loss, or do you desire to leave your statement as you already stated it, yes or no? A. I desire to leave my statement as it is here.

Q. That is all, Mr. Leeds? A. But I wanted to say, if I may be permitted, that Mr. Blake in drawing his conclusions, took into consideration the fact that they had all this labor.

Q. Now, Mr. Leeds, just pardon me. We are not questioning Mr. Blake's conclusions. We want your answer. What Mr. Blake concluded after you furnished him with the evidence and the figures, that is another matter. The figures you furnished, you desire to stand upon now here? A. I do, sir.

Q. That it would be about even and no loss? A. According to these figures, yes.

Q. Now, I am going to give you all these figures which you were good enough to turn over to me, which you say were the memoranda which you handed Mr. Blake, and ask you if you can find on any of those sheets any deductions which you have made there which would even bring the profit down to an even basis? A. (After examining) No, with the exception that here I speak of fictitious values of live stock.

Q. With reference to maintenance? A. Yes, and there would be no occasion in this report of mine to Mr. Blake to bring that down, as you stated.

Q. Do you mean to say that it was not within the line of your duty to tell Mr. Blake what the real situation was? A. Oh, no, no. You misunderstand me. What I mean was, that I was examining the books of account of the prison, and I merely gave them to Mr. Blake as they were.

Q. And you handed these figures to Mr. Blake showing a profit and you did not give him anything in the way of figures which showed that there ought to be a loss of $5,000 or $6,000 a year? A. I told him — I told him —

Q. I am not asking what you told him? A. Mr. Blake is not familiar with figures and he relied on me for all the figures in the entire proposition.

Q. Now, with regard to the building materials, you made an estimate that these buildings would cost half a million dollars. Did you give any figures on that? A. No, that was first an oral statement.

Q. That was an oral statement based upon the experience which you have described in building operations and buying of materials? A. Not entirely, Mr. Richards. Mr. Burney told me he would be glad to take that contract for $400,000. That is, he didn't say it to me personally, but he did make that statement when we were walking down from Great Meadow to the hotel.

Q. Are you sure that meant all the buildings? A. He said — well, I am sure — he was describing the entire proposition. He was there.

Q. Now, was he not describing the administration building? A. Oh, no, he was describing the cell block, and the administration building, the entire thing.

Q. Let us see. You heard Mr. Burney's testimony yesterday, didn't you? A. I did.

Q. And before I asked you about that, was it your idea that Mr. Burney's opinion was the thing that confirmed your estimate? In other words, it made you certain that you were — When you said this thing could be duplicated for $500,000, that Mr. Burney agreed with you? A. No, Mr. Richards, I knew in a general way that the original figures on the Great Meadow had been taken on estimates twenty years old. I knew there had never been any proper drawings made for the original contract. That it had been let without an upset price. It had been let on a percentage basis; that for years there no one had been able to get a complete drawing of the prison. I saw that the brick work —

Q. Now, I didn't ask — A. I was simply giving you what caused me to confirm this opinion. Of course, I don't want to be loquacious.

Q. I understand. I call your attention to Mr. Burney's testimony yesterday. You heard it, but I want to call your attention to it again, and the basis of any testimony that he gave, that he was told that the cost of this one building was probably $425,000 or $500,000, and after there was a depreciation by reason of this location, the sinking, etc., that he described in his little report, of $75,000, do you say that Mr. Burney did not say that to Mr. Blake, but on the contrary he said that he would duplicate the whole building of all the prison for $400,000? A. No, Mr. Richards, my impression is that Mr. Burney was told that the entire plant, everything that had been expended there had cost about $730,000, and that that was an impression. That was certainly my impression when I first went there. Mr. Burney made this statement about the $400,000 in a careless way. It was a conversation. We were all walking down from the prison to the hotel. He said he would be glad to take the contract for $400,000.

By the Chairman:

Q. That was the impression you got there. What was your impression when you left there, as to the cost? A. My impression when I left was that the entire plant could be put up for $500,000.

Q. That is, including Pasquini and the Hudson valley con-

tracts? A. That is the work that had been done at that time. Pasquini had not done very much work at that time.

Q. Had not done any? A. He had done some. His men were on the ground; had excavated and done some work; perhaps a couple of hundred thousand dollars worth of work.

Q. He had done a couple of hundred thousand dollars worth of work? A. Yes.

The Chairman.— That is all.

The Witness.— Mr. Richards, one moment, if I may correct one statement.

Mr. Richards.— Certainly, sir.

The Witness.— You brought out the fact that I was drawing $200 a month from this purchasing business. My income in New York has been over $5,000, and I simply wanted to state that I was not getting any larger —

Q. You had to leave your own business altogether on this? A. No, my associate in New York takes care of my business. My business is running along.

Q. This is extra? A. No, it is not extra, because I have not been in my office since the 29th of March.

Q. So this is all "velvet," as we say in the vernacular? A. No, not velvet, but I was not jumped from $200 a month to $400.

Q. No, you went from $200 a month to getting $400 a month additional? A. No, I was not, because I gave this brokerage office in New York — of course, that goes to the man who does the work, so I get nothing of that.

Q. You give that to him, that part? A. When I get back to New York why I shall take it up again, take up my business. I hope to be there in a few days.

The Chairman.— Just a moment, Mr. Leeds.

By the Chairman:

Q. I may be wrong, and if I am I wish you would correct me. You stated you were a broker for thirty-five years. Is that right? A. On and off; about thirty-one years.

Q. You were identified a great portion of that time with manufacturing? A. Yes.

Q. You qualified in this proceeding as an expert on the cost of material, didn't you; that is, that was your supposed duty along

with being an accountant? A. Why, no, I was employed as an accountant, only as an accountant here, but I did not claim to be an expert builder.

Q. Oh, no. I say upon materials? A. Oh, yes.

Q. And the cost? A. I claim that I bought a great many materials.

Q. I understood you to say that when you arrived at Great Meadow after taking a superficial look, you informed Mr. Blake that the whole plant was not worth over $400,000; is that right? A. No, I did not say $400,000. I said $500,000.

Q. $500,000. You stated that the expense of your building operations was building two mills in Honduras and building a house for yourself. How large were the mills in Honduras that you built? A. Oh, there was one mill costing about $75,000, and another $100,000.

Q. That was — A. That was a long time ago, Mr. Frawley.

Q. How long ago did you build this house, Mr. Leeds? A. Three years ago.

Q. What was it constructed of? A. Oh, that is just a little — I do not want to qualify as a builder on a house —

Q. I know. I want you to qualify as you have made your statement here, as an expert on the cost of material? A. The house was only just a wooden house, frame house, that is all.

Q. What is brick worth? A. Why, brick is worth anywhere from $6 to $24 a thousand, depending on the brick.

Q. The character of the brick you found at Great Meadow, what was that worth? What was that brick worth a thousand? A. I should say that was worth $6 a thousand.

Q. Six dollars a thousand delivered? A. No. Some of the brick would have been worth $6 a thousand delivered.

Q. What brick were worth $6 a thousand delivered, that you base these figures on? A. Why, the brick in the central tower.

Q. Where? A. In the central tower. They call it the Central Hall.

Q. Oh, the tower? A. Yes.

Q. They are worth $6 a thousand? A. Yes.

Q. Delivered on the ground? A. Yes.

Q. How far from the tower to the point of receiving these bricks is it, that is, the railroad station, to the hall? A. Oh, I think Great Meadow must be half a mile from the railroad station.

Q. Half a mile from the railroad station? A. I should judge about that.

Q. What would you allow for transportation, how much a thousand? A. I believe that most of that brick was transported by wagons in the prison.

Q. Is that the charge as to the cost of the brick delivered? A. It ought to be.

Q. Well, is it; I want to know? A. Yes, it is.

Q. What kind of brick were there laid in this tower, what character of brick? A. They are a fine quality of brick.

Q. A fine quality of brick, you say? A. Yes, a fine quality of brick.

Q. What would you call them now? You know material. What kind of brick would you call them? You say it is a fine quality. You claim to know about material. What kind of brick are they? What would you call them, outside of the quality? A. I did not examine the brick to find out where they came from, but I should suppose they were Haverstraw brick.

Q. And you say Haverstraw brick could be delivered at Great Meadow for $6 a thousand, fine quality, first-class quality? A. No, not the finest quality.

Q. You stated before they were first class quality. Then they were not first class quality? A. Some of them were, there were different kinds. I considered that brick in the tower and most of the work good quality; yes, first class quality brick.

Q. How long ago did you purchase any brick? A. I don't think I have ever bought any brick for myself.

Q. You never bought any brick? A. I say I have —

Q. That is all. A. Not for myself. I bought brick for the company I was treasurer of.

Q. What company? A. The Leeds & Catlin Company.

Q. For what purpose? A. Building a small addition to the factory.

Q. Building a small addition to the factory? A. Yes.

Q. What did you pay for them then if you built a small addition? A. I cannot remember exactly, but I think —

Q. All right, that will do. Now, let us see what your knowledge of cement is. What is cement worth a barrel? A. About a dollar and a half.

Q. Well, how much? A. Well, a dollar and a half.

Q. What kind of cement is worth a dollar and a half a barrel? A. Portland cement.

Q. That is the upset price? A. It was worth a dollar and a half it was purchased up there.

Q. That is delivered? A. No, not delivered.

Q. Not delivered. In arriving at the various figures so that you can make a report, how do you arrive at the cost of material. A. Why, you would calculate how many thousand bricks there were and how many thousand barrels of cement, how many barrels of lime, and figure it up in that way.

Q. Anything else you would add? A. Add transportation and labor.

Q. In this case, did you add up the transportation? A. No.

Q. You didn't? A. No.

Q. What character of stone was used there? A. Why, it is a sort—

Q. What was the nature of it? A. It looks like sandstone, a very good stone.

Q. What is that worth a cubic foot? A. I could not tell you.

Q. You cannot tell what that is worth a cubic foot? A. No, I could not.

Q. But you could tell Mr. Blake, that from your superficial observation when you entered these buildings they were only worth $400,000 or $500,000? A. Mr. Blake was—

Q. I am asking you? A. I said that, yes.

Q. You told that to Mr. Blake? A. I did, yes.

Q. Now, then, you want this Committee to understand, after making that statement that you don't know what the cost per cubic foot of that stone was to place there? A. I did not make up a detailed statement.

Q. You did not make up a detailed statement? A. No, I did not make up a detailed statement.

Q. You know that Mr. Blake was going to make a report to the Governor and Legislature of this State? A. It would have taken me—

Q. I am asking you the question. A. Yes, I did.

Q. You did? A. But I also knew he was going to get an expert there to give him the figures on the building. I did not consider that my figures were to be taken as conclusive. That was simply an opinion. It would take, as a matter of fact, four or five men up there for a month to make that properly, that is an absolute statement as to the cost of that building.

Q. But you stated you compiled all the figures, practically, for this job; is that so? A. I compiled the statements of the account, how much they have spent there in the running of the prison, and all of the figures of the work there.

Q. Where did you get these figures? A. From the books.

Q. I mean the construction figures. Where did you get them? A. I did not get any construction figures. They did not have them there. The construction figures were all kept here.

Q. You make a statement, you were there as an expert, you were an expert accountant, and you say here under oath that you are qualified to tell the cost of materials; didn't you? A. Yes, sir.

Q. Well, are you qualified? A. I think I am.

Q. You are? A. I can give you the figures of the cost.

Q. I don't want the figure. I want you to tell why you say you are a qualified expert? Did you ever lay a brick in your life? A. No.

Q. Did you ever wipe a joint in your life? A. No, I did not.

Q. Did you ever do a piece of carpenter work in your life? A. No.

Q. What did you do to your own knowledge, in that line, which would make you a qualified expert on the cost of material? A. When I said a qualified —

Q. That isn't it? I want you to tell me upon what grounds you based your qualifications on building material. A. Simply the fact that I have bought building materials and know the market price of them, that is all.

Q. You told us that you built in Honduras two stamp mills. What were they constructed of? A. They were constructed of lumber.

Q. Of lumber? A. Yes.

Q. You say the house you constructed was of timber? A. Yes.

Q. Simply a small house. Now, how big was the extension you constructed that qualified you? A. That was not more than 20 feet.

Q. Twenty feet. That is twenty feet wide? A. About twenty feet square.

Q. How much material was purchased for that twenty foot extension? A. It was not very much, it was small.

Q. How much? You purchased it. You are an expert on the cost of materials. How much? A. Oh, the entire thing cost about $3,000.

Q. How many bricks to a foot? A. (No answer).

Q. To a twelve-inch wall? A. I haven't got that in my mind.

Q. You haven't got that? A. No.

Q. What is plaster worth a yard? A. About eighteen cents.

Q. Eighteen cents. What kind of plaster? A. Well, average plaster one would have in one's house.

Q. What do you call average plaster? A. Why, plaster that you use on the walls.

Q. What is plaster, what is the way, what is the method, what do they do to make a finished wall? You have bought material; you are an expert. What do they do? What is the first thing they do in plastering? A. Why, they mix up the composition and spread it on the walls.

Q. Composition of what? A. Lime.

Q. Yes; what else? A. I never mixed up any plaster.

Q. Well, you bought materials; you say you are an expert on materials, what are the ingredients of scratch coat? A. The ingredients of what?

Q. What are the materials used in a scratch coat? A. I couldn't say.

Q. Do you know what a scratch coat is? A. Is it that rough —

Q. No. Don't ask me what it is. Do you know what a scratch coat is? A. Yes, the scratch coat is a rough finish.

Q. A rough finish. What is a brown coat? A. I do not know, except as the name indicates.

Q. What is a brown coat, if the scratch coat is the rough finish? A. (No answer).

Q. What is the white coat? A. Why, the white coat would be the usual finish.

Q. Do you want this committee to understand you as an expert on materials? A. Why, not, in the usual sense; no. As an expert I merely told Mr. Blake that I knew the values of materials, and I gave him my opinion.

Q. You gave him your opinion? A. But I did not go into details.

Q. And is your opinion based on the same figures that you have given this committee now, upon the cost of plastering? A. I did not make a detailed statement of the cost.

Q. Well, you qualified here? A. I merely made a statement.

Q. You made a statement? A. I was only there a day when I made a statement.

Q. You made a statement. Upon that Mr. Blake has written a report that has gone to the people of this State, that $500,000 in graft was taken out of the State in Great Meadow. A. Mr. Blake did not go to the State on my report. He depended on Burney.

Q. Didn't he pay you $130 a week — as what? A. As an accountant.

Q. As an accountant. Who was the expert builder whom you talked with and conferred with so as to arrive at the figures and statements you have made? A. I did not talk with any builder other than Burney.

Q. When you gave this statement, as you did, in the form of a statement, Mr. Burney has perjured himself here, has he? A. Well, I do not say that.

Q. Well, the only five that we get as experts are Leeds, Bogart, Hunter, Francisco, and Burney; which of those four men, outside of yourselves, gave you the figures so that Mr. Blake could make his report that the State was mulcted out of $500,000? A. None of those men gave me those figures. As I stated, in walking down from the prison to the hotel, Mr. Burney made the statement to us all generally, there were several in the crowd, that he would be glad to take that contract for $400,000, and that confirmed me in my opinion.

Q. You have made a broad statement here that that entire plant on your examination was only worth about $400,000, didn't you — to-day? A. $500,000.

Q. $500,000. You made that statement? A. Yes. That was my impression.

Q. Your impression. You won't charge this State $130 a week for an impression, will you? A. No, sir.

Q. You don't want this Committee to understand that you would intentionally go out and malign — A. Oh, no.

Q. A contractor upon impressions? A. That was my belief.

Q. Let us see what you based your belief on. How much was the land worth? A. I think the land there is worth about $30,000.

Q. $30,000. How many acres are there? A. I think there are about 100 acres.

Q. What is the size of the buildings? A. I don't recall.

Q. You don't recall? A. No.

Q. Did you ever measure? A. No.

Q. Did you ever measure this tower you speak of, where brick was worth $6 a thousand? A. No.

Q. You never measured that? A. No.

Q. You know how much brick was contained in that? A. No.

Q. Do you know how much stone was laid in the construction of this? A. No.

Q. What is excavation worth a yard? A. Up there, I think excavation is worth about $1.50, very hard.

Q. $1.50. What is it worth in the city? A. I do not know what it is worth in New York.

Q. You don't know. What is foundation worth a yard, the laying of foundation? A. I could not tell you.

Q. You could not tell me? A. No.

The Chairman.— That is all.

Assemblyman Yard.— One question, Mr. Leeds.

By Assemblyman Yard:

Q. You don't hold any certificate as an accountant, do you? A. No.

Mr. Richards.— Just a minute, Mr. Leeds, I have one or two questions to ask.

By Mr. Richards:

Q. You were in court when Mr. Blake testified with regard to the sources of his determinations with regard to the valuation of the structure of the prison, were you not? A. Yes.

Q. Last July 3rd, the day before the 4th? A. Yes.

Q. And he was on the stand? A. Yes.

Q. Do you remember this testimony? Now, pay attention to it, and see whether you remember it, and then I am going to ask about it.

(Reading) "Q. Now, Mr. Blake, when you drew your report of April 9th, with regard to Great Meadow Prison, what did you have before you as a basis of that report? A. I had the testimony from men who were connected with the prison, the testimony of Mr. Francisco, and Mr. Burney, and an examination of the contract and specifications; I think that was all.

"Q. Mr. Leeds you say had work then — A. Yes.

"Q. Had worked on the Great Meadow proposition? A. Yes.

"And did you file any report by Mr. Leeds with your report of April 9th? A. No, I think — I do not think I filed that; I do not think we have it.

"Q. Will you produce it at the next hearing, Mr. Blake? A. If I have it; but I am not sure I have it. If I have it, I will do so.

"Q. Then, you had a report from Mr. Leeds; what was that on? A. That was on the general physical structure of the prison; Mr. Leeds is here and you can ask him."

Did you hand a report to Mr. Blake on the physical structure of the prison? A. I handed a report to Mr. Blake on the general situation, and the physical structure of the prison was mentioned in that report.

Q. Where is it? Is it in this paper which you have given us? A. No. I went in that report more into the method of letting those contracts there. It is not here.

Q. You understand that — the physical structure — did you give him a report on the physical structure; you understand what that means. Now, did you? A. The report that I gave him — It was not typewritten; it was merely a pencil report, sort of data.

Q. Data on what? A. Data on the cost of operations up there, that is, the cost of running the prison and what I believe the work cost.

Q. Did you give him any data on the subject of the structure of the prison? A. I did not give him data to the effect that there was so much brick at so much, and so much cement at so much.

Q. I will read this again: "Mr. Blake stated these answers in response to questions which I asked him:

"Q. Then, you had a report from Mr. Leeds; what was that on? A. That was on the general physical structure of the prison. Mr. Leeds is here; you can ask him."

Q. Did you give him a report on the general physical structure of the prison or not? A. Anything that Mr. Blake says I will subscribe to. If he says I did, I must have done it, I do not remember the report. I haven't a copy of it.

Q. What was in it? A. I remember I gave him a statement as to the amount of money that had been drawn up there from the State for the maintenance of the prison.

Q. Maintenance. Now, don't — A. You wanted to know what was in it — This was one thing.

Q. You and I have not so far misunderstood ourselves to that extent? A. No.

Q. I have been asking about the physical structure of the prison and any report on that. You say perhaps you did give him a report. I want you to tell me the substance of that report on the

physical structure of the prison. A. The substance of the report on the physical structure of the prison was merely a statement that I believed that operation could have been built for half a million dollars.

Q. That was the report? A. That is the gist of it.

Q. Were you influenced in that report, if you call it a report, by the casual remark which you have described of Mr. Burney, the carpenter? A. I was influenced so far as it confirms my belief.

Q. Your belief. Now, you are getting down to your belief. I am asking about something you are positive about. Something you are willing to have somebody state and file as a matter of record? A. To be positive about that would have taken a month, Mr. Richards.

Q. Exactly. A. I was there only two or three days. It was an off-hand opinion.

Q. When were you in Honduras? A. From 1881 to 1886, inclusive.

Mr. Richards.— That is all.

The Chairman.— Just before you leave, Mr. Leeds.

By the Chairman:

Q. Are you appearing now in any proceedings before any Grand Jury in this State? A. No, not now.

Q. Have you? A. I have been in Sing Sing. I was called by Mr. Osborne.

Q. Are you appearing there now? A. That Grand Jury finished last week.

Q. It did finish? A. It finished.

Q. Are you preparing now to appear before the Grand Jury as stated by Mr. Blake in presenting this matter to the Grand Jury in the county in which Great Meadow is?

Mr. Richards.— Washington County.

Q. Washington County? A. I have not made the slightest preparation for it. I didn't know whether Mr. Blake would want me.

Q. You don't know whether he would want you? A. Whether he would need me.

Q. Has he ever spoke to you about it? A. No.

Q. Has he ever talked to you about the figures upon which he expected to indict the officials of Great Meadow? A. Yes, he

has talked to me about the figures, as to the expenditures up there, what this cost — The entire proposition has cost over a million dollars.

Q. And these are the figures that you have stated here to-day that you have furnished to Mr. Blake to go before the Grand Jury? A. I don't believe Mr. Blake would want my testimony before the Grand Jury, because Mr. Burney was his expert on the building, called as an expert and paid as an expert.

Q. Then you are preparing no figures at all? A. As yet, I haven't prepared anything.

Q. How long are you employed now by the State at $130 a week? A. Since March 29th.

Q. March 29th. What figures, or what work have you in your official position since March 29th, up to the present date? A. I have the report there I made on Sing Sing, and I have data on Clinton.

Q. You have got that report? A. I have.

Q. On Clinton? A. No, I have not got the report on Sing Sing. I have part of — Well, I have got data on Clinton.

Q. You have got data on Clinton? A. This pencil data.

Q. What other prison? A. Well, we examined Elmira and Napanoch; only two days at Napanoch.

Q. Two days at Napanoch? A. Haven't finished there.

Q. How long at Elmira — well, while you are on that question, what data are you compiling now at Napanoch, what is the nature of your work there? A. I was on the books, simply the books.

Q. The books only? A. The books only.

Q. You are not compiling figures as to the cost of materials? A. No.

Q. Have you compiled figures and the cost of materials of any other institution in the State outside of Great Meadow, figures of any character, whether as to materials — A. Yes, I have compiled the cost of the raw material purchased for the industries in Sing Sing.

Q. What industries do you refer to? A. The yarn industry.

Q. Yarn? A. Yes.

Q. What else? A. The leather.

Q. What else? A. And the clothing.

Q. Are you qualified as an expert on that now? A. No, I simply wrote to concerns dealing in those articles to find out the prices on certain samples.

Q. Let me ask you, in writing to these concerns for a basis of figuring, what quantity did you ask for; did you ask in the same quantity that you asked for that twenty-foot extension you built, or did you ask for large quantities? A. No, I asked for quantities about on a par with those that they would buy at the prison.

Mr. Richards.— I think that is all, Mr. Leeds.

(Witness excused.)

The Chairman.— Next witness, Mr. Richards.

Mr. Richards.— Mr. Weller, now.

Roy K. Weller, recalled.

By Mr. Richards:

Q. Mr. Weller, have you had an opportunity now to look over those stenographer's minutes? A. I have.

Q. And verified or compared them with your original stenographic minutes? A. No; only as to the number of witnesses, whom they were — I have not gone over the testimony with the notes at all.

Q. I do not need to compare all the testimony, but the witnesses called? A. Yes, sir.

Q. And does that include all the witnesses whose testimony you took stenographically at Great Meadow? A. It does.

Q. It does? A. Yes.

Q. That is a correct transcript? A. Yes, sir.

Q. Will you tell me on that check for $100 to your order — look at it and see if you remember about that check. (Handing check to witness). A. I remember the check, yes.

Q. How did it come to go to Mr. Blake? A. I don't know.

Q. You say it is endorsed by your own endorsement, R. K. Weller, that is yourself? A. That is right.

Q. Then, "pay to the order of Agnes Leeds Blake"; then, "Agnes Leeds Blake," and some deposit. Have you any idea how it was that you turned that over to Mr. Blake or Mrs. Blake? A. I don't remember the circumstances, Mr. Richards. I remember the check though. You see, I wrote the check, but I do not really remember the circumstances. I think though that —

Q. It seems to have a number and then it was corrected? A. I will tell you why that was. That is my own handwriting. That is my number and it didn't —

Q. Number 10? A. Number 10, and it did not agree with the number in Mr. Blake's books.

Q. It is just a matter that I want to know about. Is that your handwriting, your endorsement on the back of that check? A. No, sir.

Q. Payable to your order. Did you authorize anybody to sign your name to it? A. No, sir.

Mr. Richards.— I offer the check dated March 31, 1913, and the check dated May 30, 1913, in evidence.

(The checks dated March 31, 1913, and May 30, 1913, were received in evidence and marked Exhibits 23 and 24 respectively of this date.)

The Witness.— I don't know the circumstances of the check, but now I recall it. Mr. Blake gave me a letter to Mrs. Blake and I think that check was in it. I don't really remember the circumstances.

Q. You seem to remember this was not credited in your handwriting? A. It was, but I don't recall this for the moment. I will tell you about that — I don't know.

Q. This other one you don't remember anything about, and that is not your endorsement on the back of that one? A. No, sir.

Q. Did anybody have your authority, that you know of? A. (Examining Exhibit 24.) Why, if you will tell me that name there — that is not my signature.

Q. I cannot make it out any more than you can. A. I will tell you what I think it is. I have seen that check. Now, I know about that. That is not my signature. That check was given to me. Mr. Blake at that time gave me two checks because we were up at Napanoch, and Napanoch is a little place, and James Shanley is the hotel keeper up there, and I paid my bill with that check, but that is not my endorsement.

Q. Then you remember now? A. Yes, I just wanted to know about it. That is the reason I wanted to see that other signature, because that is the one I gave to the hotel keeper.

Mr. Richards.— That is all.

(Witness excused.)

Mr. Richards.— Mr. Chairman, I was going to put Mr. Blake on the stand. It will probably take more time than we will have

between now and 1 o'clock. I don't know how you feel by going on with him.

The Chairman— We can take a recess until 2 o'clock, and come back and work until 4.

Mr. Richards.— Mr. Weller wants to correct a statement in regard to the hundred-dollar check.

The Witness.— At the time that I was going to New York, Mr. Blake sent me down there, I do not know what for, Mr. Blake sent me to New York for something in connection with the Prison Department, and he asked me if I would give Mrs. Blake a letter, and I said I would. He said, "Have you got any money?" And I said, "I have." He said, "Will you cash a check if I make it out to your order?" And I said, "Yes, how large is it?" And he said "$100," so I wrote out the check myself, and gave Mr. Blake the hundred dollars, and he gave me the check, and I think that check was cashed in the Ten Eyck Hotel. I was not clear about it, and I did not want to make a mistake, but that is the fact. I gave Mr. Blake $100 for that check.

Mr. Richards.—This should not be charged to your account. That is what I want to get at.

The Witness.— Oh, no.

Mr. Richards.—So that hundred dollars which appears upon the transcript should not be charged to you, but to somebody else?

The Witness.— It should be.

Mr. Richards.— It should be charged to Mr. Blake.

The Witness.— I should think so. Anyway, I gave Mr. Blake $100 in cash for that check.

The Chairman.— We will take a recess until 2 P. M. All witnesses who are subpoenaed will be here at that time.

Whereupon, at 12:30 P. M., the Committee took a recess until 2 P. M.

AFTERNOON SESSION.

2:30 P. M.

Mr. Richards.— Mr. Chairman, are you ready to proceed?

The Chairman.— Yes.

Mr. Richards.—Mr. Weller, will you take the stand?

Roy K. Weller resumed the stand.

By Mr. Richards.

Mr. Richards.— Mr. Chairman, Mr. Weller said to me after recess that he wished to correct some testimony in regard to that check, and I stated to him that we wanted to give the fullest opportunity to everybody to explain everything, and correct everything they may have said.

Q. Mr. Weller, will you tell us about the $100 check about which I asked you at the close of the hearing this morning? A. I have been referring to the record that I filed with the comptroller, and find that I had confused this with an entirely different transaction.

Q. Just tell us in your own language what the transaction was so that it will be clear upon the record? A. I will have to go back and say that the Governor assigned me to Mr. Blake on the 18th of March, and I was with Mr. Blake from the 18th of March until March 31st inclusive, and at that time there was due me for my salary and expenses $217.88, and on March 29th, I received on account of that $50, a $50 check from Mr. Blake, and then I believe it was on — it was on March 31st, I received that check that you showed me this morning, which was still on account of that $217.88; and then on April 2nd, I received the balance of that, which amounted to $67.88.

Q. And that check which I showed you this morning was then cashed by Mr. Blake for you, is that the way? A. Why, no. No, I will explain that, Mr. Richards.

Q. That is just what I wanted.

The Chairman.— Take your time now. Don't be all in a hurry.

A. On April 2nd, Mr. Blake told me that he had to go to Comstock, and I had not cashed that $100 check, that Mr. Blake had given me, because I think you will find that March 29th was on a Saturday, and at that time I was living at the Ten Eyck, and I had not paid my bill, so I did not have my check cashed.

So, on April 2nd, Mr. Blake said to me that we would have to go to Comstock, and I still had that $100 check, and I said to him — I had other things to do, and we took the 12:15 train, and I had other things to do, and so I didn't have time to cash that $100 check, and I didn't have any money; and so I went to Comstock — that is, I didn't have any, I had several dollars in my pocket — I went to Comstock, and I wanted to send money home to Mrs. Weller.

So on the night of April 2nd, I asked Mr. Blake if he could cash my salary check of $100, and he said yes, that he would, he would be glad to, because I told him what I wanted to do, and I think you will find the records of the post office show I sent Mrs. Weller $100, and turned over the check to Mr. Blake. I endorsed the check and then turned it over to him.

The explanation I made this morning was an entirely different transaction, and had nothing to do with this March check which you showed me this morning.

In regard to the other check my explanation this morning is the correct one.

Q. You mean the $25 check? A. Yes, although that is not my signature.

Q. That was turned over to somebody A. That was turned over to the hotel keeper. The way I recognize that, I recognize the name of the man Shanley. I owed my board bill and I turned over to him my check. He said he could not cash my full salary check, and Mr. Blake gave me two checks, and he returned $3 in change of that $25 check I gave him.

Mr. Richards.— That is all. Mr. Blake, will you take the stand?

George W. Blake, recalled:

By Mr. Richards:

The Witness.— I would like to say a few words, Mr. Richards, in regard to this original letter to the Comptroller. I think there is a misapprehension on that matter.

After I had been designated by the Governor I looked into the work and found it would take a good deal longer than I had anticipated. I told the Governor I could not work without some compensation, and after conversation with him he agreed that I should receive $25 a day for expenses, and the letter was so written and sent to the Comptroller.

After my first bills went in, the Comptroller said he could not pay any money for expenses unless the expenses were itemized, but he suggested that I get a letter from the Governor, saying that I should receive $25 a day in lieu of all expenses. I had that letter drawn, carried it back to the Comptroller, and they thought that would not do. So, with Mr. Harris, who showed every desire to assist me in the matter, we wrote another letter; that is, he prepared a paragraph to be included in another letter. I think the word in that was "disbursements" in place of "expenses." That was practically the only change. The last letter is on file in the Comptroller's office.

Q. That is already in evidence. Have you been able to find the original letter of March 14th, which the later letter which was not signed until the 30th was substituted for? A. No. When I sent that back to Mr. Harris, the letter I gave to him was not substituted, and the other letter was not outlined. I do not know what it was. The letter was lying on the desk. Whether I took that letter with me when I had the new one written, or whether I left it with Mr. Harris, I do not know anything about, but I supposed that was the correction of an error and did not pay any further attention to it.

Q. Did you have anything to do with dating back that or was it done by the Governor? A. I think the Governor had nothing to do with it except to sign it.

Q. Who drafted it? Who presented it to the Governor for his signature? A. I did.

Q. Did you notice it was dated back to March 14th, when it was April 30th? A. I think I knew that.

Q. You thought that was a correct transaction? A. I did not see anything the matter with it at all, not the slightest.

Q. And you are not able to give us any further information as to the whereabouts of that original letter? A. I really haven't the slightest idea. I don't know what became of it.

Q. Now, we will take up some other matters. Mr. Weller has identified this little volume of testimony as the only testimony taken by you in your investigation of Great Meadow Prison. A. That is all.

Q. Is that right? A. That is right.

Q. And that is all the testimony you took and that includes all the witnesses you called? A. Yes.

Q. And it was upon this testimony, upon the report of Mr. Burney, the report of Mr. Francisco, and whatever report, or reports, Mr. Leeds gave you, that you wrote this report? A. And what evidence I had gathered myself from the records.

Q. What records? A. The records of contracts, amounts paid, and the various memoranda that we got from the Comptroller's office and from various sources, I don't remember just precisely what sources I got my information, but I know my ideas were very clear.

Q. Now, Mr. Blake, you know I don't want to interrupt you unnecessarily, but I want you to stick to this, and I want you to explain anything that is material to my question. You stated at the last hearing, July 3d, that the basis of that report were those very things. Do you want to change that? Do you want to say that you had something more? A. No. I would like to say on what general information I had on which I based my report.

Q. Can you point out any definite information that you had other than those I have described? A. Yes, I think I can indicate some definite knowledge that I had. That is, it seemed to me to be definite, and I believed it was.

Q. Yes. Now, taking up first the supplemental report. You said that you were after the truth; that you wanted to report the truth and the whole truth, did you not? A. I don't know whether I said that or not. I certainly did.

Q. Yes. A. I say so now.

Q. Yes. You say so now. That was my understanding of your testimony then, that you wanted to give the facts as you found them? A. Yes.

Q. I want to have you look at this testimony, and state whether or not when you purported to quote that testimony, whether you gave all the testimony. For that purpose you can look at your own original report. A. (After examining.) No, I did not give it all.

Q. You purported to quote it? A. I quoted under those points I considered salient.

Q. You purported to quote testimony, question and answer, without any breaks? A. I do not think I said that.

Q. Look at it and see? A. I do not think I said that.

Q. What was it intended to mean? A. I did not say anything here which would indicate that I made any pretense of quoting in entirety.

Q. I did not ask you that. I asked you in regard to certain testimony, for instance, the principal keeper of the prison, Richard B. Chatfield? A. Yes.

Q. Your report refers to his testimony, and then you say, (reading) "Then he was asked:

"Q. Have you any criticism to make in regard to them? A. Well, the buildings are not properly constructed. So far as the walls are concerned they are regular fire traps. The wall is built of plaster boards. There are no permanent walls of any description in this (administrative) building. For instance, if one of my men threw anything against the walls they would break through.

"Q. So far as you know they are only temporary? A. So far as I know.

"Q. This building has been accepted by the State? A. Yes, sir, I believe so. Now, the space between the walls would act as a draft in case of fire. The piping throughout the building, whether due to the condition of the water or whatever it may be, is such that we are obliged to repeatedly replace it because it is eaten up inside. It might be the water that causes it to eat itself out, but every little while the piping has to be replaced.

"Q. There are wooden floors in the building here? A. Yes, three-inch planking; apparently laid permanently.

"Q. In your opinion it should never have been accepted by the architect? A. I don't think it should. The same thing can be said of the cell house. The cell house construction of the devices for opening and closing the windows are such that we have to have men on them repairing the iron bars that work them. The State Architect recently wrote relative to the construction of the new wing and I was asked to make suggestions, and I suggested that the bars be closer together so that men could not pass things from one to the other in their cells. On the north end of the cell house a man can pass a bed from one cell to another.

"Q. Do you think this is the best site for the building? A. Not by any means. The prison should be built on a hill.

"Q. It would be easier to take care of? A. Yes, and it would do away with the necessity of spending $100,000 for grading. The site is entirely wrong in my estimation; the building of the prison is wrong in every way."

I mean even the whole on the very point you were asking him about? A. No, I seem to have left out one question here.

Q. What was that? A. The question is. "Then they are not permanent walls?" I see that I left out his answer "I should say that they were not." Then I go on, "So far as you know they are only temporary? A. So far as I know. Q. This building has been accepted by the State? A. Yes, sir, I believe so. Now, the space between the walls would act as a draft in case of fire. The piping throughout the buildings, whether due to the condition of the water or whatever it may be, is such that we are obliged to repeatedly replace it because it is eaten up inside. It might be the water that causes it to eat itself out, but every little while the piping has to be replaced. Q. These are wooden floors in the building here? A. Yes, three-inch planking; apparently laid permanently."

Q. Didn't you leave out some there? A. Let's see, "apparently laid permanently. Q. In your opinion"— oh, yes, here was about the projecting walls.

Q. Now read that. A. (Reading) "What are those projecting wall beams outside in the hall? A. That seems to have been a bad job. It certainly must be intended to have a heavy wall in time, or it is not done as it should be."

Q. Then read following it a question "In your opinion it should never have been accepted by the architect? A. I don't think it should." That referred to that simple question of those projecting walls. A. That referred to the building.

Q. You have made it read referring to the building. A. That was not so.

Q. Why didn't you quote it all? A. I guess it was on account of brevity. That is the only thing I remember. I had no other intention whatever.

Q. Then turn to the testimony of Mr. Charles E. Hamilton, the prison chaplain. A. Yes.

Q. Look at his testimony at page 18. See what you have got there and see the way you quote it. (Indicating) A. You read from the first question on page 18. I have not got that.

Q. That is it (indicating). Now read that. A. (reading) "Do you think the architecture of this building is of such"—

Q. No, I am reading there (indicating). That is where you begin. A. (reading) "Do you think it would be a bad thing if a

fire should start in the administrative building or the cell building?"

Q. Yes. Now, what was the testimony there. Read that testimony that you now have quoted. A. (reading) "I think so, particularly in the administrative building."

Q. Now, read the original testimony question and answer. A. (reading) "Q. Do you think it would be a bad thing if a fire should start in the administrative building or cell building? A. I think so, particularly in the administrative building."

Q. What did you say the testimony was? A. The same thing. It follows precisely —

Q. No, read it. (Reading) "Do you think that life would be lost"— A. (reading) "if a fire should start in the administrative building or cell building? A. I think so, particularly in the administrative building."

Q. Why did you change those words? A. I did not. I don't see any change. I cannot see a particle of change, Mr. Richards.

Q. All right, we will see. (Reading) "Do you think it would be a bad thing"— A. Oh, I see. Yes, I did leave out "Do you think it would be a bad thing," then I say (reading) "Do you think that life would be lost"—

Q. Why did you change that? A. I don't know; because that was the impression I was trying to bring out, because the administrative building was used as a dormitory.

Q. You were quoting testimony? A. I probably was.

Q. Do you think you had a right to put your construction on it and make a construction that would look serious, by talking about "loss of life" when it wasn't in the testimony? A. The whole thing up there —

Q. I want an answer to that question. A. I am going to answer it. I had a right to, I think, under the circumstances, yes.

Q. And you say that that was in the line of your telling the truth, the whole truth and nothing but the truth in your report? A. Because the administrative building is used as a dormitory, and the only importance I attached to that testimony was to the fact that it is used as sleeping quarters for the guards, and I did not think it is a fit place for them to sleep.

Q. And this is your statement (reading): "Charles E. Hamilton, the prison chaplain, said that the building was not what it ought to be. Then came this testimony:" Now, did you give his testimony, or did you give your construction of his testimony? A. Well, I thought that I had given it, but judging from this I had

not given it. I had reconstructed his testimony in view of what I considered to be the facts in the case.

Q. In other words, you felt at liberty not only to reconstruct your report but to reconstruct testimony you filed with your report? A. No, I got the sense of the situation up there and kept it. The whole importance of that thing was the men sleeping in there, and there was no way for them to get out at all at night.

Q. But was that the testimony? A. That was not the testimony. That was not the testimony — well, let me read on and see.

Q. I am only talking about things. A. We were discussing the lives of the officers, the sleeping quarters all the time.

Q. Have you got that in.— You have that in. I want to ask another question about your evidence. Just read the original report if you have got it handy. Then at the end of this report of yours you purport to quote the testimony of Warren Coomer, the farmer, in which you made him say, with regard to the farm — read at the last page of your report, Mr. Blake, the last page of your report. A. Page 13 or 14, Mr. Richards.

Q. Yes. See if you find this there. (Reading.)

"Q. Then they do not compare with the ordinary, good dairy farms? A. No, sir." Do you find that there? A. I do.

Q. Can you find that in Mr. Warren Coomer's testimony anywhere in the record? A. (Reading.) "Then it does not compare very favorably with an ordinary, good dairy farm?" That seems to have been a mistake, as to the phrasing of the language.

Q. Yes, but now did you feel at liberty to change the phrasing of the testimony that you were reporting as testimony? A. I think that was a mistake. I saw no serious — there could have have been no object — that must have been a mistake in the preparing of this.

Q. Was the other change with an object? A. No.

Q. That is, about the loss of life in the other testimony? A. The idea was to make it clear as to the danger of loss of life in that building. It does not compare, that is certain, sir.

Q. At the end of the report you say (Reading) "The same"— you are referring to the question of the butter and the milk at the end there, and you say (Reading),

"The same slipshod methods are observed in the matter of chickens, sheep and swine."

Q. Do you find anything in that testimony about sheep or swine? A. No, I don't know. There is nothing in the testimony.

Q. Then that was just from something that you had observed and did not take any testimony on? A. Oh, yes.

Q. And, of course, this evidence you referred to there was not even Coomer's evidence. It was evidence by a man by the name of Sturgess? A. He gave his testimony.

Q. In the testimony you are reporting it was not even Coomer's, I mean in regard to this that you quoted as Coomer's testimony; this is Sturgess? A. Yes.

Q. So Sturgess gave that testimony in conjunction with other testimony on the subject and you put it in as quoting Coomer and changed it? A. I don't say I changed it wittingly.

Q. I am not referring to wittingly. It was changed. A. It does not compare anyway.

Q. You wanted to report everything favorable or unfavorable in this matter, didn't you? A. Certainly.

Q. Did you give any testimony about the methods for the moral improvement of the inmates that is in that testimony? Did you report that? A. No. I don't think I did.

Q. Why didn't you? It was material to your investigation, wasn't it? A. No, I don't think so.

Q. Let me read it to you and see if you don't think it was. A. I know to what you refer.

Q. All right. I will read it to you and then see whether you can answer the question. This is by the prison chaplain, whom you quoted on other matters, but not on his favorable testimony in regard to the result of their method of discipline and the effect upon the prisoners, and see why it was — and if you can explain why it was that you left out this testimony. Pages 15 and 16, you asked this question. (Reading):

"Q. What do you think of the plan and scope of the prison? A. The plan seems to have been to make this an honor system for first term prisoners; to bring them here after having served certain terms in other prisons and release them from the severity of the discipline of other prisons and give them privileges which would make them better men and better equipped to again assume their rights in society; physically, morally and possibly mentally. This is the plan we have tried to work on. We have tried to be fair with the men and we have tried to get a reasonable amount of work out of them and give them a reasonable amount of recreation."

Did you think that was material testimony to report on the condition of this prison? A. That was known. That was the

reason for the creation of that prison. I supposed everybody was familiar with that.

Q. That was the reason you did not refer to it, because you presumed it was known? A. I thought it was known. Yes, sir.

Q. And when you were talking about the bad construction and the bad arrangements, did you refer to the testimony, the sworn testimony, which showed the prisoners were better housed than the officers? A. No, I did not.

Q. Did you think that material on the management of the prison? A. I thought it was a disgraceful condition of affairs, keeping the guards in that dormitory and making them sleep there and not providing proper quarters for them to sleep.

Q. But, although it was disgraceful in your opinion, you did not consider that — A. You know all this stuff is to be followed by a general report with recommendations for that condition.

Q. I want to give you a reasonable opportunity, but I don't want you to go off on generalities. I want to have you stick right to the point in hand. Do you want to say now that because the testimony shows the management of the prison tended toward better housing for the prisoners than they gave to their own staff, that you thought that was a disgraceful situation and that was the reason you did not report it? A. That was to be attended to in a future report.

Q. Because you thought that was a disgraceful situation, was that the reason you did not report it? A. No, that was to be attended to in a future report.

Q. What do you mean by a future report? A. The general idea I had was to take that up separately and work along my own lines to see if I could not correct that. I talked with the warden about building a house, for which he had an appropriation, urged him to begin work.

Q. You put in your report something about the way that the prison was run with regard to this mysterious method of buying beef in one way and paying for it in another? A. Yes.

Q. Although you wouldn't say it in so many words, you used this expression (reading): "It seems certain that this method was adopted in order to falsify the books so that the prison could make a better showing, even if graft is not hidden somewhere in the juggling of the figures." Did you have anything to base that statement on? A. I did.

Q. Where is it? A. If you look at the testimony there you will find — I think I took testimony from two farmers there.

Q. Oh, I know about that, but you say this (reading): "While it does not appear that any person has benefited financially from this method, it is certainly a peculiar way of doing business."

Then you follow it up and say (reading):

"It seems certain this method was adopted in order to falsify the books," and that is the charge I want to have you justify. A. They compelled farmers to swear to the correctness of the affidavits or vouchers, which contained wrong weights, which I considered a very wrongful method. I have testimony to that effect.

Q. I saw your testimony. Now, Mr. Blake, don't get away from this proposition: you have told about that and you have said in conclusion that (reading): "The farmers interrogated said that they were not testifying to the accuracy of the vouchers, but merely swearing to their signatures and that they were assured that there was nothing crooked about it. The farmers accepted this statement as far as it related to their side of the transaction," and then you say (reading): "While it does not appear that any person has benefited financially from this method,"— did you mean that? A. Yes.

Q. Then you follow on and say — did you think somebody got the benefit of it? A. Yes, I thought somebody did.

Q. Tell us where and who is it that got that? A. I don't know.

Q. That is what I wanted to know. Are you doing anything but giving your opinion without evidence? A. I want to know why they did it. I have not been able to find out.

Q. And you haven't any figures or facts to make that statement on? A. No, I have not been able to get anybody to explain why they adopted that method.

Q. Do you consider it your duty to refer to something simply because you had not been satisfied about it, and to use this expression (reading): "It seems certain that this method was adopted in order to falsify the books so that the prison could make a better showing, even if graft is not hidden somewhere in the juggling of the figures." A. I think so.

Q. You think you are justified? A. Yes, sir.

Q. I just want to get your mental operations. Now, then, referring to this matter of the dairy farm. This is your report (reading): "The records of the prison make it appear as if the farm was making a profit, but the fact is that the loss has been between $5,000 and $6,000 a year. This shows the character of the management." Did you make that statement? A. I did.

Q. What did you make it on? A. On the belief that they were not charging themselves — were not crediting themselves, whichever it may be — with the produce of the farm; that they were not charging themselves — that they were undercharging themselves for the produce taken from the farm; that they did not charge themselves with the market price, and that they had reduced the cost of maintenance by selling to themselves their own product. That was one reason for it.

Q. Now, wait. That you say was your belief? A. Yes.

Q. Did you find anything on which to base that belief? A. I based it on the product of the cows. They have 80 cows there, and if you look over the testimony you will find they did not seem to produce very much milk.

Q. What has that got to do with this if there is a loss, you say, of between $5,000 and $6,000 a year? A. It certainly has something to do with it. When they credit so much on the books, so much milk is produced on the cows and then they have a great deal more, that reduces a good deal the cost of maintenance.

Q. That is the idea? A. That is the idea.

Q. I want to know whether these are not the figures Mr. Leeds handed to you showing the cost of maintaining the farm and the result of the maintenance of the farm for six months? (Handing paper to witness.) A. I don't remember whether these were the exact figures, because it has been some time ago.

Q. Look at it and we will give you a chance to thoroughly consider it. A. I don't remember.

Q. You relied on Mr. Leeds to tell you what there was with regard to the financial management? A. To a certain extent.

Q. To a large extent, you told us on July 3d; you relied on him for all these things. A. July 3d?

Q. The last time you were on the stand you said "I got it from reports of Mr. Leeds. You will have to ask him." I ask you whether you, as a matter of fact, relied on him? A. I got some of my facts — I want to know whether this is, if Mr. Leeds says it is his.

Q. Mr. Leeds has turned it over as his report. A. This is—

Q. What does it show? A. Profit, $1,859.08.

Q. For what length of time? A. April, 1912, to March 31, 1913. Oh, no — I don't see any date here but at the top it says "Cost of maintaining dairy."

Q. I am talking about the dairy. I guess that profit is for the same period, $1,859.08.

Q. And look at this one and see if you had that. A. I do not, of course, remember this; I don't say so, I don't know.

Q. You assume, however, those are correct, when Mr. Leeds says that? A. Yes.

Q. So you had those before you? A. Yes.

Q. Did he give you this statement showing the total profit on the farm for a year? A. I recognize his figures, but, as I say, I did not mark these, so I can not tell. I presume that is all right.

Q. On that sheet of paper which you have in your hand, what is the profit for the year, of the farm? A. There seems to be a balance of $4,131.32.

Q. That is something over $4,000? A. Yes.

Q. You had that in your possession when you made this statement that (Reading).

> "The records of the prison make it appear as if the farm was making a profit, but the fact is that the loss has been between $5,000 and $6,000 a year."

Now, will you tell us again how you turned a profit of $4,000 into a loss of from $5,000 to $6,000? A. I had some data on which I based my conclusions at that time. I do not recall definitely now what the figures were, but there was —

Q. You won't say — I beg your pardon; go ahead. A. But there was a very good reason for that computation.

Q. Can you give us any reason, based on evidence, can you produce any evidence — A. I have no evidence, no, as to that.

Q. Do you think — I ask now for your mental operations, that you are justified in an official report that is to be published in making a statement of fact based upon no evidence that you can now tell us? A. I have made many statements not based upon evidence which were true and which I can prove to be true; and I think I can prove this statement to be absolutely true, although I cannot recall now just what data I had at the time.

Q. That is not the question I asked you. I asked you whether you felt yourself justified, as an official of the State of New York, in criticising the acts of others, and in criticising the management of institutions of the State, to make a statement of a matter of fact where you had no evidence to sustain it? A. I had definite information; I knew it.

Q. What information did you have? A. I say —

Q. Now, listen. I am just taking your own language. What

information did you have on which you said that the profit of $4,000 was turned into a loss of from $5,000 to $6,000. A. I knew it definitely at that time and I have no doubt—

Q. That does not answer. A. I cannot tell you now.

Mr. Richards.—I do not want, in this Committee meeting, to move to strike out a witness's evidence. I want to give him a chance to answer it, but I do want the witness to give us his answer on that particular question.

The Witness.—I say I cannot recall now just what the data was, but I know it was enough to convince me my figures were accurate.

Q. Did you look at the books yourself? A. No.

Q. You relied for that on Mr. Leeds? A. I did.

Q. I ask you to look at another memorandum of Mr. Leeds, in which it appears that the farm not only made a profit, but they deposited something over $4,000 to the credit of the capital fund of the farm from their profits, and ask you whether you saw that? A. I don't recall; the same answer as to the others.

Q. But you have no doubt of its correctness, as Mr. Leeds made it too? A. No, I guess that is all right.

Q. Now, Mr. Blake, when you were on the stand on July 3d, you told us about this statement in your original report, and you told us on what you based it, and I am going to call your attention to it again (Reading)

"A conservative estimate fixes the loss to the State by the construction of the buildings through carelessness or graft at $500,000."

What do you base that on? A. I would like to tell you of all of the facts that I had, some of which I knew to be true, others I believed to be true, and on the whole general proposition was what I based the request that this very careful investigation be made into this building so that the truth may be found.

Mr. Richards.—Now, I don't want to strike out your answer and I won't ask to have that done, but I ask the stenographer to read the question and ask you to answer then.

(The question was read by the stenographer as follows: "Now, Mr. Blake, when you were on the stand on July 3d, you told us

about this statement in your original report, and you told us on what you based it, and I am going to call your attention to it again (Reading)

"A conservative estimate fixes the loss to the State by the construction of the buildings through carelessness or graft at $500,000.

"What do you base that on?"

Q. Just tell us what you base it on. A. I must tell you the whole chain of circumstances on which I based that.

Q. No, I don't want a chain of anything. A. But I cannot answer.

Q. I want the basis of your statement. A. When the law was passed in April, 1909, the appropriation called for $350,000 and the terms of the act was that they should furnish stockade, office buildings, cell house, and, in fact, everything and equip and furnish it, or words to that effect; that they should do all that, the cell house, office buildings and stockade for $350,000.

Nine months after that there was another bill put in for an appropriation of $735,000.

Q. I am going to move to strike out, Mr. Blake, because I want the basis on which you made this statement. A. I am trying to give that. I cannot give that to you unless I lead up to the facts on which I base my statement. There had never been any complete plans of that prison, and it seemed to me, and I believed it then and I do believe it now, that the building was to be started and built piecemeal.

Q. Don't give us your beliefs. Just give us facts. A. I must give you a little history of this business before you can understand.

Q. Tell us the facts; not your beliefs. A. I will tell you the facts. The contract was let at 7 per cent. percentage, with no upset price. It was a price afterwards described by Mr. Ware, the State Architect, to the Governor as costing the State at least 10 per cent. more than a —

The Chairman.— Than by the contract system.

The Witness.— Than by the contract system.

The Chairman.— Competitive bidding.

The Witness.— Yes.

The Chairman.— What was that amount you said?

The Witness.— The second appropriation $735,000, I think, and the first, $350,000; $735,000 and $350,000 I think were the two figures. I don't remember.

Then, after it was decided to give the contract to the firm that got it, an allowance of $10,000 was given to this firm for the use of its plant; $7,500 at the start, and, later —

Q. That is all in the letter to Mr. Sussdorff? A. Yes, sir.

Q. That was in your supplemental report. A. That was one of the reasons.

Q. Wait. We are going to stop right there. I want to be fair with you and I want to have you be fair with me. The letter to Mr. Sussdorff, detailing that fact, was not received until after your original report was filed. How do you get it from that? A. After my first report?

Q. Yes. A. That was merely to prove the statement I made.

Q. I am asking you the basis of your statement, dated April 9th, as to $500,000 of graft. A. We will leave that out.

Q. We will leave that out because that came afterwards. A. All right. That was of no consequence. There are many, so many details about this, I am trying to get them right. The Prison Commission had a good deal of trouble at various times with this contract. There were no proper borings made.

Q. How many; $50,000 or $100,000, did you put down that? A. Lack of borings; it cost $44,000 to shore up that building.

Q. That was not graft. A. Wasn't it, when you get the 7 per cent. basis?

Q. Make it 7 per cent. on $44,000; what is it? A. No, 7 per cent. on something like $580,000, or whatever the cost was.

Q. There is about $40,000. A. No; there is more than that.

Q. There is more than half a million to account for. I want you to account for it. A. There is about $60,000 there.

Q. We will give you your best figures; $60,000 there. A. Mr. Burney, under the impression that the total cost of those buildings was $735,000 estimated an overcharge of $75,000, I think.

Q. That makes $35,000 —

The Chairman.— Excuse me. Let me get you right, in your statement. Mr. Burney stated on the $735,000 —

By the Chairman:

Q. That was the general plant? A. Yes.

Q. That was $75,000 too much? A. Yes.

Q. Mr. Burney's statement is on the whole proposition? A. Yes.

Q. Now that would make $75,000 and $60,000; that would be $135,000? A. Yes.

By Mr. Richards:

Q. And the actual expenditure of that was over a million? A. That would be $260,000 more; $260,000 and $75,000, and $54,000; you can figure it up.

By the Chairman.— You take $200,000 and what on a million? A. There was over a million. He figured this loss on $730,000. If you put down $75,000 which he estimated on $730,000 and then put down the difference between $730,000 and $1,000,000.

Q. The difference between $735,000 and $1,000,000? That would be $265,000. A. Yes.

Q. What was the profit on that? A. I am showing where I get this overcharge. I am figure —

Q. I know, but so as to get you right in your figures — A. I am just figuring up the loss to the State, how much more it cost than it should have cost under different methods.

Q. That is what I am trying to get for you. You say Mr. Burney's statement was that on the $735,000 there was $75,000, in his estimation, $75,000 too much paid? A. Yes, that is so.

Q. Now, you said, I believe, on the $1,000,000 — $1,010,000.

Q. $1,010,000 there was 200 and odd thousand dollars? A. That is, because —

Q. Let us get that now. Is this another million or is this $735,000 a part of this million? A. No, you don't understand me. When he figured a loss of $75,000 on $730,000 expenditure, then anything additional over that $730,000 was also an additional loss.

Q. But you figure now that $265,000 — A. Together with the $75,000.

Q. Over the $735,000? A. Yes.

Q. Which he placed $75,000 on? A. Yes.

Q. Was graft? A. No, did not say that; the loss to the State.

Q. The loss to the State? A. Through carelessness or graft.

Q. Just a moment. $265,000 and $75,000, and then there is $60,000, isn't there? A. Yes; there is about $65,000.

Q. That would be — A. Wait a moment. There is some more.

Q. I beg your pardon. A. Then the statement by Mr. Chatfield

and others I spoke to, that the location of the building, because it was on that low lying land had entailed an expense of upwards of $100,000 over what it would have cost on the side of the hill.

Q. In what way, Mr. Blake? A. Because of the difficulty in grading and in getting any kind of a foundation at all. I am taking all these figures because I believe them to be true. I have investigated the matter pretty carefully and I have thought over it and studied, and I believe my estimate of $500,000 was all right, and I believe so.

Then, the construction of the administrative building, which I believe cost all that a good building should have cost, and it is a bad building.

Q. Then the statement Mr. Burney made as to the material and the workmanship is not true? A. The material was plasterboard, and it should have been good plaster. Then the pine flooring. I don't consider good construction for a prison building or anything that would give cause for fire.

Q. Did the specification call for pine flooring? A. I don't know. I figure on what the State got for what it spent. That is what I figured on the material.

Q. That is what I want to get at. A. Whether the State got value for money which it spent.

Q. Wouldn't you find out if the specifications provided that character of construction? A. We went over, as I said before, we went over this specification and I do not remember just what we found, but I think that we all had a general knowledge. I know that I had a general idea, but it was very general because I don't know anything about building.

Q. You don't know anything about it? A. But I know something about values and I can judge something about what a thing ought to cost, you know; that is all; and I don't think the State has received full value for that work up there.

Q. Let us get it straightened out and clear on the record, for your sake as well as ours. When you examined this to arrive at a conclusion as to the character of the construction, did you look at the specifications to see whether the contractor carried out to the letter the specifications? A. I don't think I made a very careful study of the specifications, no.

Q. Do you know if that specification provided for that character of material? A. I don't believe I do.

Q. You don't know that? A. I don't believe I do.

Q. Did you examine into the character of the work, whether it was good or bad, to see whether the State had been cheated in the workmanship? A. I took the word of other persons for that.

Q. For example, who was the man? A. The Principal Keeper, Chatfield, who is a very good prison man.

Q. Is he a builder? A. He is a prison man.

Q. I thought you predicated this report upon a report you got from an expert and so made your figures; but let us get it straightened out for your protection. You say Mr. Chatfield? A. The principal keeper.

Q. He has told you these facts, that the material was practically bad? A. He said the building was wrong in every way. I will go on and tell you other reasons that I have.

The locking machinery, they have a great deal of difficulty with it. It does not work right. It has already needed repairs. The locking machinery is bad, according to Mr. Chatfield and others; and the cellhouse gives them a great deal of trouble. It does not work well, and it is not properly constructed. I have been told, although I don't know, but I believe that the partitions between the cells are too thin; that the roof of the cellhouse is combustible and will have to be sheathed; the windows contain alcoves, which, of course, no cellhouse should contain, because it gives a place to hide; that the doors and windows are altogether too far apart for safety.

I believe also that the buildings are and always will be in danger of sinking because of the foundations and lack of proper borings at the start.

Whenever I criticized anything to any of the people up there I have always met with the reply "This is only temporary. This is going to come out and it is going to be made over." That led me to believe that since money enough had been spent to make permanent buildings, why should they not have been made, but there does not appear to be anything permanent up there.

Q. Then you want to justify yourself in your statement of this $500,000, not in graft, but that it was the fault of the architect in the start in not providing proper construction; is that it? A. No; no; I want to take the general condition, the whole general condition, and say that the state has lost $500,000 in the way those buildings were constructed.

Q. You don't mean that, Mr. Blake? A. I think I do.

Q. You have your own expert, Mr. Burney, testifying here, under oath that the workmanship was first class and the material first class. If that be so, that is your own witness, and you don't mean to have this committee believe that you are going to discredit your own witness. A. I am afraid Mr. Burney was a little confused. I don't think he meant everything he said. He certainly did not make those statements to me nor did he indicate that in his affidavit.

Q. You were here all during his examination? A. Yes, I was.

Q. You heard Mr. Burney, whom you state in your report had years of experience in construction and also engaged as an expert by the New York Central Railroad to give values, to give the quality of workmanship — you heard him state here that he never at any time took a measurement, saw a specification, had a plan; that he examined the character of the material and the character of the workmanship, and upon that he stated it was first class. Is that true, or is it not? A. I don't think I heard him say all that, although he doubtless did.

Q. He may have used some other words than I have expressed, that that is really the substance; when the questions were put to him by Mr. Richards as to the character of the work and material, you heard him state it was first class in every respect and that was all he knew. A. He has changed his mind considerably since he talked with me if that is his position now.

Q. I am only trying to bring those facts out for your protection. You asked the other day if we intended to discredit you. That is not the purpose at all, but when a general statement is made to the legislature, which brought about this investigation, that there was $500,000 at Great Meadow, the legislature felt in duty bound to appoint a committee to investigate and find out who got this $500,000. A. I have also demanded that this investigation be made — that is, I have requested that a careful inquiry be made into each one of these details.

Q. You will admit here that Mr. Richards and the Committee have been fair and just to all of your witnesses that you furnished? A. I have not any fault to find at all.

Q. That is the reason I want you to get on the record how you predicated your $500,000 graft. A. I have told you that, and then I believe the grading — I am taking Mr. Chatfield's word, and others, that the grading cost $100,000 of unnecessary expense.

Q. $100,000 for grading? A. Yes.

By Mr. Richards:

Q. Did you ever take the trouble to look in the Comptroller's office and see how much was charged up to grading? A. No, I never did.

Q. Do you know whether it is over $5,000? A. I do not.

The Chairman.— Mr. Sussdorff, have you the figures on the excavation of that job?

The Chairman.— Will you kindly get that, please? See if you can get something near what it cost to excavate for the prison site.

Q. I show you the Comptroller's report, showing that there is no appropriation for grading in the year 1909; no appropriation for grading in the year 1910, and that there was $5,000 appropriation in 1911. Will you state whether or not you have got any further information about any $100,000? A. Here is the basis of my information.

Q. No — the basis of your information is what? A. Is the testimony of Mr. Chatfield.

Q. Let us see what his testimony is. A. Shall I read it?

Q. Yes. I will read it. See how much Mr. Chatfield knows about it, except simply information. This is all that Mr. Chatfield says, and this is the way he says it (reading):

> "Q. Do you think this is the best site" — this is your question to Chatfield — "for the buildings? A. Not by any means. The prison should have been built on a hill.
>
> "Q. It would be easier to take care of? A. Yes, and it would do away with the necessity of spending $100,000 for grading."

Q. Do you mean to say from that that there is $100,000 for grading? A. No; "would have to be spent."

Q. That has not anything to do with moneys expended so far for this purpose? A. No.

Q. I call your attention to another statement that I would like to have you tell us a little more about, and that is this talk about a $30,000 road. Where do you find any evidence of any $30,000 road? A. I did not find any evidence except the talk of men at the prison, almost from the start, who said there had been $30,000 spent. I did not look it up.

Q. Did you have or ever get any evidence of that in a sworn statement? A. I did not.

Q. You mean to say that because somebody simply talked about $30,000 that may have been spent, that you put that in your report as a fact? A. Yes, because it must be taken up when this investigation is made.

Q. It is the innuendo you put in this — I want to call your attention to the way you put it:

"It has been repeatedly stated, although I have not investigated the matter" — did you investigate the matter? A. No. I said I had not investigated.

Q. Why did you refer to it then, if you had not investigated? A. Because I wanted the inquiry that is to be made based on that information there. I want the entire thing to be covered. I have asked that this thing be investigated carefully by experts along the different lines.

Q. Let us get right down to words. Isn't this newspaper talk you are giving in here? A. No, no, not a bit of it. I did not use or see a newspaper of any kind when I wrote that report.

Q. I don't mean anything in a newspaper, but is this the sort of statement you say should be put in the report of an official of the State of New York on which you are making a recommendation? A. I think that report to the Governor as the basis of a request for a careful investigation is proper and right. I don't stand on that. I asked the Governor — that is, I believed those to be the facts and I asked him to investigate, and he is going to investigate.

Q. We did not ask that. A. I just wanted to explain my position in the matter.

Q. I want to have you again read your testimony on July 31 before all these witnesses were called and ask you whether you gave this testimony about the basis of your report, of this $500,000 loss by carelessness or graft, when I ask you, on the question of the $500,000 graft. (Reading):

"Q. Now, Mr. Blake, when you drew your report of April 9th with regard to Great Meadow Prison, what did you have before you as a basis of that report? A. I had the testimony from men who were connected with the prison, the testimony of Mr. Francisco and Mr. Burney and an examination of the contract and specifications; I think that was all."

Now, was that so? A. And the general information that I had about the — the talks with the men whose testimony I did not take and my own observation. I guess that was all.

Q. That was all. You then said that Mr. Leeds gave you a re-

port on the general physical structure of the prison. Did he do that? A. We used to sit down and discuss this matter and he would talk over what he had discovered during the day. Sometimes he would have memorandums and sometimes he would have none. Sometimes he dictated to Mr. Weller, but all for the purpose of giving me certain information which had been obtained.

Q. I am asking you now whether he gave you a report? A. I do not believe that he gave me any written report.

Q. What do you mean by this testimony on July 3d (reading):

"Q. Mr. Leeds you say had worked then — A. Yes.

"Q. Had worked on the Great Meadow proposition? A. Yes.

"Q. And did you file any report by Mr. Leeds with your report of April 9th? A. No, I think — I do not think I filed that; I do not think we have it.

"Q. Will you produce it at the next hearing, Mr. Blake? A. If I have it, but I am not sure I have it; if I have it I will do so.

"Q. Then you had a report from Mr. Leeds; what was that one? A. That was on the general physical structure of the prison; Mr. Leeds is here; you can ask him."

Q. Did you give that testimony, and did you mean it? A. I think that you misunderstood that to mean that he had prepared a written report for me; I did not mean that at all; I meant that he had reported to me, not that he had made a report to me.

By the Chairman:

Q. Did you base any of your report on any figures or any statements made to you by Mr. Leeds? A. Oh, yes.

Q. Did you base any of your figures upon the price of his excavation? A. Really, I do not recall, I do not recall whether I did or not.

Q. Did you base any of your report on his figures on brick work? A. No.

Q. Did you base any of your report on his figures on plaster? A. I did not take the matter up in detail like that; it was the general proposition I was taking.

Q. Now, be fair. You engaged these men as experts and paid them expert wages and you were going to make a report to the Governor and Legislature, what was the purpose of engaging these men at $130 a week if you were not going to base some-

thing upon the reports that were submitted by them? A. I did not employ them as experts. I employed Mr. Leeds as an accountant, not an expert on buildings, although I was glad to know he had some knowledge of building.

Q. You are still satisfied that he has some knowledge of building materials? A. Yes.

Q. The cost of building materials? A. Oh, yes.

Q. If I told you now, after the statements made by Mr. Leeds this morning, that he figured the cost of plastering at eighteen cents a yard; if I told you that the lowest you could get per yard was forty-five cents a yard, would you still have confidence in him. A. That would embarrass me considerably.

Q. Would you have confidence in a man who was an expert on the cost of materials, but who did not know the ingredients or the number of coats or how to make up mortar for plastering? A. I do not think I am competent to answer that because I do not know what it is that makes an expert precisely except general information.

Q. I want to be fair with you now. I believe that you made your report upon the statements furnished by these men, such as Mr. Hunter, Mr. Leeds, Mr. Bogart, Mr. Burney and Mr. Francisco. A. I believe my report to be true.

Q. You said they reported to you? A. No, I believe my report is true to the fact that there was that loss.

Q. You still maintain, irrespective of the statements these men made, who were engaged for the purpose of expert testimony? A. I think that can be shown. If it is not shown, I will take the responsibility for the statement. I want people to go up there and investigate. I have no pride. I was trying to do my duty and I think I did it and I think I told the truth.

Q. You still believe that? A. I do believe it.

Q. In the face of all the testimony furnished here? A. I am absolutely convinced of it.

The Chairman.— All right, Mr. Richards.

By Mr. Richards:

Q. Was your sole desire in this matter to have an investigation made? A. Do you mean to have somebody else go up there, to follow me and investigate?

Q. To have an investigation made of the conditions at Great Meadow Prison, was that your sole desire? A. When I found

what the conditions were I found it was necessary to have this made and so recommended.

Q. That is what I am talking about in your report? A. Yes.

Q. Did you have any other desire or any other wish to have something done? A. Not the slightest.

Q. You were not interested in the question as to who was the superintendent of prisons? A. Not the slightest.

Q. Why did you keep referring in this report to the Superintendent of Prisons, who on the basis of your own statement had nothing whatsoever to do with the contract, except signing it? A. I do not know as I did refer. In what manner?

Q. (Reading) "The bills for inferior work and for work not done at all passed through the hands of the State Architect, his representatives at the prison, the Comptroller and the Superintendent of Prisons." A. All this money was spent prior to 1911, the great part of it. In that matter I was talking then about this first contract.

Q. (Reading) "I have compared the material and labor with the standard demanded under section 46 of standard specifications, which forms a part of the contract for this work entered into on the 31st day of November, 1911, between Joseph W. Scott, Superintendent of Prisons, and A. Pasquini" — that is the Pasquini contract. A. I did not say that, that is in the affidavit.

Q. That is in the affidavit, but you refer to it and make it a part of your report? A. It was in the affidavit. I had nothing to do with it.

Q. You didn't draw up this affidavit? A. Oh, no; I had not the slightest interest in it at all.

Q. What do you mean by this statement in your supplemental report, if you were not interested in who was the superintendent of prisons and whether he was doing his duty, by the statement in your supplemental report (reading):

> "I am of the opinion that under the supervision of a fairly conscientious and competent superintendent of prisons the farm could be made sufficiently productive to relieve the State of at least 75 per cent. of the cost of maintenance."

What was the purpose of that statement? A. Superintendent of Prisons?

Q. Yes. A. Where is that?

Q. There it is (indicating). A. I referred there to the matter that while some of the prisons were crowded there were —

Q. Look at the paragraph. I don't want to let you make such a mistake as that. See what you are talking about. Read the whole of it and then tell us what you mean by it. A. Yes, I am going to.

Q. Can you tell us what you meant by it? A. I think I know just what was in my mind at that time.

Q. Well, tell us. A. The Conservation Commission had, I think, about 200 men up there doing work for them for which there was no charge made by the Prison Department, or at least the Conservation Commission did not pay anything to the Prison Department, and I felt then that the work done for the Conservation Commission by the men in that prison that the Conservation Commission should pay, and I felt it was the duty of the Superintendent —

Q. You refer to that in another paragraph in your supplemental reports. I want to know what you mean by this expression, when you say you had no interest in the question of who was the superintendent of prisons (reading):

"I am of the opinion that under the supervision of a fairly conscientious and competent superintendent of prisons the farm could be made sufficiently productive to relieve the State of at least 75 per cent. of the cost of maintenance."

What did you mean by that? A. Certainly. The conservation was a part of the farm.

Q. I want to know what you mean by referring to a "conscientious superintendent of prisons?" A. I mean they didn't get money for the work done by these prisoners.

Q. Did you mean by that that the man who was superintendent of prisons was not conscientious or intimate that, or intend to intimate it? A. We had no superintendent.

Q. You were referring to the man who had been superintendent? A. No, I do not think so.

Q. What did you mean by that. Read it again. What did you mean by that, if there wasn't a man there? A. I will have to read this from the start.

Q. Tell us what you mean by it? A. Then I go back here to the Conservation Commission.

Q. You have a separate paragraph there about the conscientious superintendent of prisons that you would like to have. A. That is perfectly plain.

Q. Do you think that you would have been a conscientious superintendent of prisons? A. I don't think so.

Q. Didn't you have that in mind? A. Not the slightest idea.

Q. You were not a candidate for that position? A. Never in the world. I haven't the slightest hope on earth.

Mr. Richards.— I think that is all, Mr. Chairman.

The Chairman.— I just want to ask you one more question, Mr. Blake.

By the Chairman:

Q. In what year was this site purchased for the — A. It was purchased for the Lunacy Commission and it was sometime prior to 1909, but I don't remember the date.

Q. These contracts were let out during Governor Hughes' administration? A. Oh, yes, all of these, all except this — now, I don't know but what all of them, but all this money I am talking about, the great bulk of it was spent during 1909 and 1910.

Q. This work was carried out under the former State Architect, Mr. Ware? A. Yes.

Q. Would you have the Committee believe that Mr. Ware permitted the State to be mulcted out of this sum of money? A. I think I would rather not express my opinion upon that subject.

Q. Well, you have expressed an opinion on $500,000. If that be so, and the work was done under Mr. Ware, do you believe that Mr. Ware permitted the State to be mulcted out of $500,000? A. I have read the record of that thing pretty carefully, and everything I could find would indicate to my mind that Mr. Ware was doing the best he could and was doing his duty. I have seen nothing to the contrary.

Q. Then, let us know where you base your statement of $500,000 in graft, if you say that Mr. Ware was doing his duty? A. I have already given you the figures.

Q. No, you haven't. You have assumed something. You say in your testimony that in the comparison you made in your mind as to the materials there and of the— A. Let me tell you the figures, the way I figure this thing up —

Q. Yes, I would like to have the figures. A. The estimate of Mr. Burney was based on $730,000, and $75,000 of that was overcharged.

Q. Let us get it clear now. How much money was appropriated for Great Meadow altogether? A. Up to the time I made that estimate about a million and ten thousand dollars.

Q. A million and ten thousand dollars. That includes the purchase of the land.

Mr. Richards.— If we are going to make a calculation, it is exactly $950,000 by the Comptroller's figures, $50,000 for the Warden's house and grounds.

The Chairman.— Does that include the purchase of the land?

Mr. Richards.— Everything, except the Warden's house, which was purchased as a separate proposition.

The Chairman.— Nine hundred and what?

Mr. Richards.— $955,000.

The Chairman.— $955,000. Does that include the Pasquini contract?

Mr. Horgan.— Yes, sir, it includes everything up to April 1, 1913.

The Chairman.— What was the amount of the Pasquini contract?

Mr. Richards.— $110,000 or $220,000.

The Witness.— $102,000, I think.

Mr. Horgan.— $102,000 and twenty.

Mr. Richards.—Something over $102,000.

The Witness.— About $102,000.

Mr. Horgan.—And the next bid was $102,000.

Q. That leaves $853,000? A. You must — in this work I have included the reasonable expenditure.

Q. That is what we are getting at. We are taking the total cost, unless you want to go on record to say — A. No, I want to take the total cost.

Q. What I want to get at is this, unless you want to go on record and say the entire matter — that the State has been at fault in accepting the ground or in the construction? A. No, no.

Q. You don't want to say that? A. No, no.

Q. Mr. Horgan tells me that the total amount of money spent was $753,000 in construction. Is that so? A. No, I think Mr. Horgan is in error.

Mr. Horgan.— $350,000 first, included the cost of the ground. I understand $200,000 was paid for land.

The Chairman.— Is this $350,000 included in that, Mr. Horgan?

Mr. Horgan.— Yes.

Mr. Sussdorff.— The total contracts to date amount to $1,522,000 in round numbers.

Q. I thought the Pasquini contract was $684,000. A. $1,005,000 has been spent.

The Chairman.— What are the figures?

Mr. Sussdorff.— $1,522,000.

The Chairman.— That is the total amount that has been appropriated for Great Meadow?

Mr. Sussdorff.— That is the total amount of contracts. The total appropriations for construction purposes not including appropriations for maintenance or for farming implements and for things of that kind, $1,713,000, for construction purposes.

The Chairman.— $1,713,000.

Q. How much of that was let under the competitive system? A. How much of it was let under the competitive system?

Q. There was a percentage contract. A. That was competition.

Q. How much was let under that percentage contract?

Mr. Sussdorff.— The total cost of the percentage contract is $569,055.

The Chairman.— Then the balance, the difference between $1,713,000?

Mr. Sussdorff.— That is —

The Chairman.— That $1,523,000 is the total amount of construction; $569,000 was your percentage competition. There is $954,000 worth of contracts let by competitive bidding.

Mr. Sussdorff.— That much is on the lump sum, contract basis.

The Chairman.— I understand that, that is competition.

Mr. Sussdorff.— Yes.

The Chairman.— The lowest estimate received the work.

Mr. Sussdorff.— All the work, percentage and everything else, was let on competition.

The Chairman.— I understand.

Q. Now, Mr. Blake, what proportion of the $954,000 which was let by competitive bidding do you consider graft, how much of it? A. I do not quite understand the question.

Q. You understand the system. There are two systems of bidding? A. I cannot differentiate with it. It is loss; it is all loss to the State by —

Q. Now, Mr. Blake, I am fair with you. If you maintain that the entire Great Meadow proposition is a total loss to the State, that is a different proposition entirely, but if you maintain that in the construction, which is intimated in your report, there is $500,000 worth of graft, that is a different thing. A. I did not say so. I said carelessness.

Mr. Richards.— That is the expression. I make this suggestion, that it would be a desirable thing to have him apportion the carelessness and graft, how much he gets in both or either. This is the expression (reading):

> "A conservative estimate fixes the loss to the State by the construction of the buildings, through carelessness or graft, at $500,000."

That is the expression. I want to go further though. I think you had better call the attention of Mr. Blake, when you are going on, to this (reading):

> "A peculiar feature of this situation is that no attempt has been made to conceal the wrong."

Did you make that statement?

The Witness.— I did.

Mr. Richards.—(Reading) "It is so brazen and conspicuous that even the most unobserving visitor through the prison building must observe it. For more than two years this prison building job has been used to rob the State."

That meant graft, didn't it?

The Witness.—Yes.

The Chairman.— That is what I want to get clear.

Mr. Richards.— I thought you wanted to have that in.

The Chairman.— I don't want to be unfair with Mr. Blake. If he means that in his opinion the entire thing was a mistake, that is one thing. But if you mean, as the report has it, that the State has been robbed by a contractor, politicians, or any State official of $500,000, I want you to tell me each portion of this work which has been stolen.

The Witness.— I have asked that that matter be investigated in order that the thing can be determined, whether there is any graft or dishonesty in the proposition or not. That has not been done yet, but it is going to be, I don't mind telling you now.

By Mr. Richards:

Q. Then you mean that you don't mean what is in this report? A. It must have been one or the other.

Q. What do you mean by this statement? (Reading): "The bills for inferior work and for work not done at all passed through the hands of the State Architect, his representatives at the prison, the Comptroller and the Superintendent of Prisons." Did you make that statement? A. I did.

Q. (Reading): "All of these persons, with the exception of the Comptroller, must have known that the bills were dishonest and should not have been paid." Did you make that statement? A. I did.

Q. (Reading): "Yet they passed smoothly along and the money found its way into the pockets of the contractor. It must be plain to any thinking person that a long series of bills, practically all of them dishonest, could not have passed through so many hands without detection." Did you make that statement? A. I did.

Q. Did you have any evidence at all to make that statement on? A. I believed that was so.

Q. Did you have any evidence at all to make that statement on? A. I believed that was so from what I saw and facts I believed to be true.

Q. Tell us the facts or evidence that you had? A. I have told you in the description of the reason why I put this $500,000.

Q. Then the only basis for that statement is your testimony that you have given already, the facts that you have testified to?

A. Just give me a moment. I will remember what I testified to. I am certain that the State will have to continually spend money to keep these buildings in any sort of habitable condition.

Q. That is not the question. You are talking about dishonest bills, money that has gone into the pockets of the contractor; that they were dishonest and known to be dishonest to the Superintendent of Prisons and the State Architect, and you made the exception of the Comptroller. You made that exception. Have you any evidence to base that on? A. From my own knowledge that on Great Meadow I believe the State has not received 50 per cent. in value.

By the Chairman:

Q. Do you mean in the material value? A. I mean on the general proposition up there.

Q. I understand, but we are not interested in that. All we want to get is this, because we are going there to make an investigation. You have already made an investigation. Do you mean that the materials as furnished, that out of those materials the State has been robbed by the contractor, the architect, the inspector who was on the job? A. That must be determined by an investigation which I have asked to have made. I do not know. I am trying to find out.

Q. Do you think it is fair, if you haven't made an investigation, to publish a report charging high State officials, such as the State Architect, his assistants, and the Superintendent of State Prisons, and the contractor, that they have deliberately stolen this money? A. I did not say so. I have not charged them with that.

The Chairman.— Read it again.

By Mr. Richards:

Q. I will read it again. (Reading):

"For more than two years this prison building job has been used to rob the State." That includes the former Superintendent of Prisons, Mr. Scott, does it not? A. More than two years, he was about eighteen months.

Q. That includes his term. (Reading):

"For more than two years this prison building job has been used to rob the State."

Did you mean the word "rob"? A. Rob, not in the sense of graft, but to rob by poor work.

Q. We will read it in connection with the next sentence. (Reading):

"It has been frequently said that there is a 'prison ring' forged for the purpose of stealing the peoples' money."

Did you mean dishonesty there? A. I did.

Q. Did you mean to connect it with the prior sentence? A. (No answer.)

Q. Answer please. A. I am waiting to read it. I am trying to get it in this report of mine. What I meant by the "prison ring" was that I find in these contracts, many contracts, the same names repeatedly appearing and no new ones and I think that is a circumstance suspicious enough to warrant a request for an investigation which I have made.

Q. You make this charge. (Reading):

"The bills for inferior work and for work not done at all passed through the hands of the State Architect, his representatives at the prison, the Comptroller and the Superintendent of Prisons. All of these persons, with the exception of the Comptroller, must have known that the bills were dishonest and should not have been paid."

The Chairman.— That is the question.

Q. Did you mean to charge dishonesty? A. No, dishonest work; I didn't mean to say anybody was stealing money, but I did not feel that the contractors were giving the State the value of its money, the work was poor.

By the Chairman:

Q. That is what I want now. A. The work was poor.

Q. Then the State Architect, if he permitted this work to go on, as you state, allowing inferior material and an inferior class of workmanship, from your report, he must, that contractor or the inspector, must have received some consideration? A. That is not what I mean.

Q. Let me read it. I want to see what it says. I want to know if the State was cheated by the contractor or its own employees out of this money. Just follow with me, Mr. Blake, to see that I am right, because this is the only question I want to ask you. A. What paragraph is that?

Q. It is on the report of the Great Meadow prison. A. On the first column?

Mr. Richards.— I will show you right in here. Turn right there, at the top of your report. (Indicating).

Q. Just read down two or three paragraphs (reading):

> "A conservative estimate fixes the loss to the State by the construction of the buildings through carelessness or graft at $500,000. A peculiar feature of this situation is that no attempt has been made to conceal the wrong. It is so brazen and conspicuous that even the most unobserving visitor to the prison building must observe it. For more than two years this prison building job has been used to rob the State. Before going further into the details I want to call your attention to a situation that seems to exist in the Department of Prisons. It has been frequently said that there is a 'prison ring,' forged for the purpose of stealing the people's money. I believe this statement to be true, because the dishonesty of this particular job has so many ramifications. The bills for inferior work and for work not done at all"— now don't get that mixed — work, that was not done at all — "passed through the hands of the State Architect."

There is not anything to misunderstand about that. If they paid for work not done and passed it through the hands of the State Architect, then he is guilty of larceny and I want to know that. Now, (reading)

> "his representatives, at the prison, the Comptroller and the Superintendent of Prisons."

All of these persons, with the exception of the Comptroller. Now, you say you excluded the Comptroller, that he did not receive any of this money which was paid for work not done at all and for inferior work. Do you still think that? That is all I want to know because I want to get the State Architect. I cannot accuse anybody of dishonesty now. I have not mentioned him in this connection whatever. Of course, Mr. Ware, one of the reputable citizens of this State for years, has stood high. He was the State Architect at the time, and there is not anything — I am not misquoting, other than your statement (reading):

> "The bills for inferior work and work not done at all passed through the hands of the State Architect, his repre-

sentatives at the prison, the Comptroller and the Superintendent of Prisons. All of these persons"— you go on in the next paragraph — " with the exception of the Comptroller must have known that the bills were dishonest and should not have been paid."

Now, is not that a direct accusation against Mr. Ware, the former State Architect, and Mr. Scott, the former Superintendent of Prisons, and whoever were his inspectors or assistants on that job? That is the only question. I want to get that clear in my mind. A. No. The only proposition is this: I consider this work, the whole business, the whole work was not done properly.

Q. You say the money going into the pockets of the State Architect. A. I did not say that.

Q. Mr. Blake, I don't want to cross-examine you. I want this cleared up and we will read it again.

Mr. Richards.— Read toward the end, Mr. Chairman, and see what he says.

Q. (Reading) " The bills for inferior work and for work not done at all passed through the hands of the State Architect, his representatives at the prison, the Comptroller and the Superintendent of Prisons. All of these persons, with the exception of the Comptroller, must have known that the bills were dishonest and should not have been paid. Yet they passed smoothly along and the money found its way into the pockets of the contractor."

Mr. Richards.— Read the next sentence.

Q. (Reading.) "A careful investigation might show how much of it remained there."

That would infer, in my crude way, that this money which the State paid for work not done, must either be in the pockets jointly of the contractor or the State Architect. Do you mean to say that that statement is true? A. I want to answer the question in this way, that if the State Architect, the Superintendent of Prisons and the Comptroller, or anybody else, knew that the contractor was doing work that was not proper, was not performing the duties which the State expected it to perform, that would need constant repairs, that was not fit for the service for which it was designed,— I consider that dishonest work, and it was in connection with that that the statement was made.

Q. Now, Mr. Blake, you don't want these gentlemen here all of us, who are practical men in life, to believe that if an architect or a man upon the job will stand there and permit that man not to do any work at all and pay him for it, or that he will permit him to put, for example, a piece of material that should cost under the contract $10 and he substitutes a piece of material that costs only $2, that he will let the contractor put that profit in his pocket without joining or participating in the fruits of that — you don't believe that, do you? A. I think the Committee ought to let my report stand on its own feet until we get through with the investigation we intend to make. I believe everything I said there was true, and I believe so now, and if it is found after investigation that it is not true, I am the one who will have to fall, but I want to stand and rest on the situation as it is now until a thorough investigation is made; and I would like the Committee to wait until that investigation is made, and then, if I am wrong, I will take the responsibility of it, but I don't think I am wrong.

Q. You have proceeded to make an investigation, for which the State furnished you a sum of money. From that money you engaged experts and made this investigation. You furnished sworn affidavits, containing everything, to the Governor, to the newspapers and the people of this State.

Upon that statement the Legislature felt that some investigation should be made. We want you to help this Committee, before it starts out, to give some solid foundation for the charges you made, before the State is put to more expense. That is our purpose.

Can you help us? Will you state that in your report, in which you say the State Architect, his assistants, and the Superintendent of State Prisons, that any of these moneys have gone into their pockets? A. I will have to refer you to the statement I made, if you ask me on what I base this $500,000 charge of graft.

Q. No. That is graft. That is an assumption. That is like Leeds said he looked over the ground and thought it was worth $500,000. That is only an assumption. Unfortunately, you have been made commissioner and you have to make a report. Upon that report we are working.

Do you believe now the statement you made in your report, that some of the money which was paid to the contractor on the vouchers certified by the State Architect, by the Superintendent

of State Prisons, by the Comptroller of the State of New York — that any part of that money was grafted by any of these State officials? A. I do not know.

Q. Do you believe so? A. I do not know.

Q. You have made the statement? A. I would rather believe that the money was lost through carelessness and by bad work, but not through any —

Q. Graft? A. Graft. I would rather believe that.

Q. And that is your opinion? A. Yes.

The Chairman.— That is all.

By Assemblyman Yard:

Q. You mention work not done at all. Have you any evidence of work not done at all under the specifications? A. I did not produce any evidence, but it seems to me the evidence can be found up there. There is a lot of work not done. For instance, I think some of that wood work in the administration building has been done mainly — that is the floors — done by prisoners; a lot of work was done by the convicts under the control of Warden Homer, that I think the contractor ought to have done.

By the Chairman:

Q. What did it say in the contract? A. I do not know.

By Assemblyman Yard:

Q. That is what you say when you say work was paid for that was not done at all? A. Yes, quite a lot of work was done by prisoners under Homer.

Q. In other words, somebody paid for that? A. No, I said an investigation might find that.

Q. No, you state in your report.

By Mr. Richards:

Q. This is what you say (Reading):

"Q. The bills for inferior work and for work not done at all passed through the hands" — of these various people? A. I believe that is true.

Q. Was it true? A. I believe that is true.

Q. That is all you have got, your belief? A. That is all.

Q. You did not state that in your report, that you believed it. You stated it as a fact. Look at your report. Did you state in your report any charges on belief, or did you state them as facts? A. I stated them as facts, as I believed to be the facts.

Q. Did you state them in your report as anything but facts? A. Let us see what the report shows.

The Chairman.— He has already stated.

Mr. Richards.— The report speaks for itself.

The Chairman.— Anybody else?

Mr. Richards.— That is all, Mr. Blake.

(Witness excused.)

Mr. Richards.— Mr. Sussdorff.

Charles A. Sussdorff was called as a witness, and being duly sworn, testified as follows:

Examination by Mr. Richards:

Q. What is your full name? A. Charles A. Sussdorff.

Q. How recently did you make an investigation here? A. Last Thursday and Friday, Thursday and Friday of last week.

Q. Who was with you, when you made this investigation? A. Mr. Pilcher, Mr. Blake, Mr. Leeds and Mr. Weller; at least Mr. Pilcher and I went up there, and Mr. Blake, Mr. Leeds and Mr. Weller were there also.

Q. Have you got any memorandum you took at that time? A. Yes. I took no particular memoranda.

Q. Will you just tell in your own way, Mr. Sussdorff, the result of the inspections and examinations which you made the other day, and then we will go back into this statement of construction expenses and so forth afterwards? A. We found that the prison was occupied, that is, there were, I believe, about 400 prisoners in cells. The dormitory was occupied as the office of the institution and also was used as a mess hall for the prisoners.

The work of construction under the first Pasquini contract was proceeding. The connecting corridors were under way. The tower house was under construction, as was the mess hall, and the excavation for the middle building had been about completed.

On the second Pasquini contract the foundations were practically installed for the cell block.

Q. Did you examine the character of the workmanship in detail on the first and second contracts? A. I did.

Q. Will you state what the character of the workmanship was? A. It is excellent.

Q. You have been connected with the State Architect's office for some time, have you not? A. I have.

Q. How long have you been there? A. Practically seventeen years.

Q. Were you there continuously during the course of the construction of Great Meadow Prison? A. I was.

Q. Were the various contracts for Great Meadow Prison approved by your office and executed by various State officials during your time of office? A. They were.

Q. Have you produced a statement of the construction account on Great Meadow Prison? A. I have.

Q. Is that it (handing paper to witness)? A. That is it.

Q. I ask you to look at Exhibit 25 and tell us the total amount expended for the purpose of construction? A. There have been expended $1,010,877 on contracts to the value of $1,523,364.06.

Q. How much of that was construction, actual construction, and how much of that was for land? A. None, all construction.

Q. During the course of this work of construction were you then connected with the State Architect's office? A. I was.

Q. Were you connected with the inspection at the time the various payments were made to the contractors when they were doing this work? A. I was.

Q. Did you certify to those payments? A. I have no authority to certify; I made a recommendation to the State Architect.

Q. That is, you did not certify as an official? A. Oh, no.

Q. But you O. K'd, approved vouchers providing for the payment of work, and upon that your superior certified the account for payment? A. Correct.

Q. Did you examine this work before you certified and approved those vouchers? A. Not in every instance. I made periodical inspections.

Q. In each case where you did not make a personal inspection did you have one of your inspectors detailed there to make that inspection? A. We did, we had an inspector continuously on the work.

Q. And was there any payment made, except either upon the approval of this inspector or upon your approval before the certificate of the Architect and payment by the Comptroller? A. There was not.

Q. Just so I may dispose of these charges in this report so

far as I can here, I ask you whether or not during the whole course of the construction and expenditures you have described, if you saw any sign of work that was not done at all? A. I did not.

Q. That is, of any attempt to get payment for work not done at all? A. There was none.

Q. And with regard to inferior work, when you made your inspection, did you inspect to find out whether the work complied with the specifications? A. I did.

Q. Just to dispose of this question of the specifications on the Pasquini contract, with regard to the pipe covering, although I think that has been pretty well disposed of by the admissions of Mr. Francisco, I want to have you state whether or not with regard to performance under that contract, whether or not the work being done has been done in accordance with the specifications? A. Absolutely.

Q. And that you inspected the other day? A. Yes, sir.

Q. Examined it? A. Yes, sir.

Q. And found it to be absolutely in accordance with the specifications? A. Yes, sir.

Q. It is such a large question that I may not cover in my questions everything, so is there anything further, any other matter covered by the testimony on which you would care to state anything? A. I wish you would take up the question in that report about $500 charged for repairing engines.

Q. I see. There is some reference to some small items here. (Reading):

"These engines have been running about two years. The repairs on them so far above cost $500."

Q. Have you looked into that? A. I have and I present herewith a letter from the Prison Department countersigned by the Governor to the effect that the repairs on those engines amount to $30.90.

Mr. Richards.— I offer in evidence a letter signed Owen L. Potter, Governor's representative in charge of office of Superintendent of State Prisons, approved by William Sulzer, transmitting a letter to Mr. Potter from the Great Meadow prison, showing that the total expenditure that was alleged to have been $500 was $30.90. I ask to have that spread upon the record.

(The papers referred to were received in evidence, marked Exhibit 26 of this date, and read as follows):

Filed 5977

STATE OF NEW YORK,
PRISON DEPARTMENT,
ALBANY, *April* 18, 1913.

Mr. CHARLES A. SUSSDORFF, *Acting State Architect, Albany, N. Y.*

DEAR SIR.— Referring to your letter of April 14th, I enclose copy of a communication received from Warden Homer of Great Meadow Prison relative to the cost of repairs to engines and generators.

It would seem that any further expenditures for this work that may have been made would appear in your records, either through special order or correspondence.

Respectfully yours,
OWEN L. POTTER,
Governor's Representative in Charge of Office of Superintendent of State Prisons.

STATE OF NEW YORK, 5977
GREAT MEADOW PRISON,
COMSTOCK, *April* 16, 1913.

Hon. OWEN L. POTTER, Governor's Representative in Charge of Office of Superintendent of State Prisons, Albany, New York.

DEAR SIR.— Replying to your favor of the 15th inst., regarding Mr. Sussdorff's request to be advised from what fund the $500 was expended on repairs to engines and generators at this institution, as mentioned in Commissioner Blake's report, will state that the following charges are all that have been paid from this office:

Oct. 27th, 1911	1 Eccentric Rod and Collar.....	$7.50
Oct. 3rd, 1911	1 Cross Head rebabbitted for 15″ x 14″ side crank side engine.....	19.40
Oct. 1st, 1912	1 1½″ Nut for Crosshead pin for 15″ x 14″ Automatic engine No. 31478	4.00
	Total	$30.90

This material was purchased direct from the Ames Iron Works, makers of the engines, and paid from maintenance. The item of October 3d, 1911, was paid under estimate No. 10, "Ordinary Repairs," and the other two items were paid under estimate No. 12, from the emergency fund.

The $500 mentioned must have been spent before the opening of the prison, for I have made a careful search of the books and cannot find any record of further payments from this office.

Possibly the State Architect's office could furnish me with some data in locating this amount. I shall be glad to give whatever assistance I can in trying to locate this payment.

Yours respectfully,

(Signed) WILLIAM J. HOMER,

JAT *Agent and Warden.*

Q. Has there been any other particular item called to your attention with regard to this job in the hearings here, so that you may cover them all? A. Except in a general way, the general charge occurs throughout the whole job, which Mr. Blake makes in his report.

Q. Do you remember about that? A. Yes, sir.

Q. Now, just tell us about that? A. Will you give me the —

Q. The report says this. (Reading):

"The cell house construction of the devices for opening and closing the windows are such that we have to have men on them repairing the iron bars that work them. The State Architect recently wrote relative to the construction of the new wing and I was asked to make suggestions and I suggested that the bars be closer together so that men could not pass things from one to the other in their cells. The difficulty there is that the cell house construction is bad."

Q. What do you say with regard to your investigation of that and what you found? A. I simply say that Mr. Chatfield doesn't know what he is talking about.

Q. Just describe that cell house? A. When these cells were designed, these cells were submitted to the Superintendent of Prisons and to the Commission on New Prisons for their approval as to their construction. The construction received approval of both officials and was installed in accordance with that approval.

Q. Both the Superintendent of Prisons at that time and the Commission on New Prisons? A. Yes, sir.

Q. That particular plan was installed there? A. Yes, sir.

Q. Have you examined to find out whether the installation accorded exactly with those plans? A. They do, exactly.

Q. There was some statement made by both Mr. Blake or Mr. Leeds, or one of them, that there were no original plans on this prison in existence? A. That is untrue.

Q. Where are those plans? A. In the State Architect's office.

Q. Did you hear that statement? A. Yes, sir.

Q. Have you those plans here? A. I haven't, but I can send for them and introduce them in evidence.

Q. I wish you would send for them and see that they are. A. Would it be necessary to furnish the original, or would blueprints do?

Q. Yes. A. The plans are continuously in use in the office.

Q. Then if you will send us blueprints of those drawings and plans for the original prison — A. Yes, sir.

Q. You have been steadily in the Architect's office? A. Yes, sir.

Q. In March or April did you see any sign of Mr. Leeds or Mr. Blake asking for those plans? A. No, sir; I was Acting State Architect at that time.

Q. Acting State Architect. Did they come in there looking for a copy of this Pasquini report? A. No, sir; never made,—

Q. Never made any application to you for that? A. No, sir, I would like to state that just prior to the publication of the first report, on Saturday, Mr. Leeds came to the office and asked me if I could explain the $25 a day plant charge. I told him that I did not have in my mind at that time the details surrounding the allowance of that charge. I immediately wrote to Mr. Ware to get the details of it and formally transmitted Mr. Ware's report to Mr. Leeds, which was made the subject of the supplemental report.

Q. I want to arrive to how that came to be written, the letter in his supplemental report, a copy of which he makes a part of his report, signed Franklin B. Ware and addressed to Charles A. Sussdorff, dated April 10, 1913; that was written by reason of a talk between you and Mr. Leeds, at which Mr. Leeds asked for an explanation of this? A. Yes, sir.

Q. And this letter was written at your suggestion? A. Yes, sir.

Q. By Mr. Ware to explain the situation? A. Yes, sir.

Q. And that was the first time you had seen either, anything of Mr. Leeds or Mr. Blake in regard to the investigation of the Architect's connection with these various bills? A. It was.

Q. That was the day of his report? His report is dated April 9th and you wrote to Mr. Ware on April 9th, he replying on April 10th? A. This report was not made public until sometime afterwards.

Q. I know that, but that was the date of his report. It was not made public until April 14th. The charges made here and you have a right to be heard upon it, because you were Acting State Architect at various times and in charge of this work, in connection with this statement (reading):

"The bills for inferior work and for work not done at all passed through the hands of the State Architect, his representatives at the Prison, the Comptroller and the State Superintendent of Prisons. All of these persons, with the exception of the Comptroller, must have known that the bills were dishonest and should not have been paid."

Q. What have you to say with regard to that? A. I characterize that statement as a falsehood and I wish to state under oath that there has been no bill passed through the State Architect's office, to which the State Architect has attached his signature for which one hundred cents on the dollar was not given.

Q. And that includes all work, all payments made on this particular prison? A. It does, and I wish to state that emphatically.

Q. And this particular matter you have intimate personal knowledge of because of your personal inspection and connection with it? A. I have. That report characterizes me as a thief.

Q. I think that is all, Mr. Sussdorff, unless you have something further. A. I think that in justice to Mr. Ware that I should be permitted to recite briefly the history leading up to the creation of the Great Meadow Prison and the reason for the percentage contract.

Q. I think that would be a very good idea and I wish you would just give us that briefly. A. In 1906 there was a situation which parallels that of to-day. There was an uproar, and upheaval and general criticism of Sing Sing Prison, its crowded condition, the filthy condition of the cells.

Q. In other words, the need for prison accommodations and

improvements? A. Further prison accommodations. There was enacted legislation which provided for a new prison to be located within fifty miles of New York city. A Commission on New Prisons was formed, and they went about the country looking for a site. This site was finally — they decided upon a site finally at Stony Point, and the site became known as Bear Mountain. The competition was held among the architects of the State for the plans of a prison building. These plans were received in the winter or spring of 1908, and an award was made by the judges.

An appropriation had also been made for beginning the construction of that prison. The authorities at Sing Sing Prison took possession of the site. They built a stockade for the prisoners up there and then cleared the site. If I remember correctly, I believe there was about $150,000 expended in preparing the site at Bear Mountain for the new prison.

They subsequently woke up one day and found the Palisades Park projected. There was opposition to a prison at Bear Mountain, and finally the matter was brought to such a conclusion that Palisades Park was made a fact. This automatically wiped out all the preparations that had been made for the prison at Bear Mountain, and the Commission found themselves with the plan for a prison building on their hands, but no site, and the need for the new prison was greater than ever.

The Superintendent of Prisons, Mr. C. V. Collins, at that time took up the matter, I believe, with Governor Hughes, and as a result of his activity chapter 439 of the Laws of 1909 was passed. This provided for — I am getting a little bit ahead of my story — provided for an appropriation of $350,000 and made a general provision for a new prison with its appurtenances, cell block, administration building, stockade, industrial building and other buildings which would go to make a complete prison plant.

The Superintendent of Prisons, Mr. Collins, was put to it for a site. He knew the need of additional accommodations for prisoners, and he turned to that site which was nearest at hand as affording the most available place for constructing a prison housing prisoners. That site was the site of the old industrial school in the city of Rochester. The moment that became public the citizens of Rochester made vigorous and emphatic protest to the Governor and the Legislature. The result was that no action was taken on that site. It is my recollection that Dr. Albert C. Ferris, then president of the Lunacy Commission, went to Mr.

Collins and said, "We have a site at Comstock. We don't want it as a hospital. Why don't you take it over and build a prison?" Collins said, "Yes, that is a good idea."

Q. Did they own it? A. The State owned this site at this time and had been in possession of it some six or seven years. I think the site at Comstock was purchased by the Hospital Commission in 1902 or 1903.

Q. That is what I want to get clear on the record. A. What they paid for it I do not know.

The Chairman.— It was not purchased out of this money appropriated.

The Witness.— It was not paid for out of this money. Mr. Collins came to the State Architect; while this was going on the State Architect's office immediately took up the problem of developing a prison. Collins and everybody else thought that the need for haste was great to provide proper accommodations for those prisoners who were suffering at Sing Sing Prison.

The question was taken up with the State Architect and plans for a prison were prepared, but before they had been fully developed, that is, every detail worked out, a contract was made with the Hudson Valley Construction Company, after competitive bidding, for doing the work, upon a percentage basis.

As I say, before we had every detail of our plans completed, we furnished the contractors with the foundation plan of the cell block so they could start in, and these plans were amplified and completed, and as the work progressed the plans were furnished the contractor for continuing the work. The specifications had not yet been completed, but upon a percentage basis the work and materials is furnished not for a general sum of money, but each specific item came to the State Architect to show what its cost was.

Q. They had to show the cost and materials? A. They had to show the cost and materials.

Q. And the payroll and the labor? A. Yes. We instituted a system of doing that work. The contractors rendered a daily report showing the number of men at work each day in every trade. The contractors furnished a weekly report. The contractors first furnished a monthly statement showing every item of expense. With this monthly statement there was furnished in triplicate vouchers to which was attached the bills covering the work that was furnished or the labor that had been done, which

were checked by the representative on the work. They came to me and I rechecked and sent them to the State Architect who gave his certificate.

Every workman is given a receipt and those are in a safety deposit vault in Troy. The vouchers are rendered in triplicate. One copy is kept by the State Architect, and kept until the work is finished and then transmitted to the Comptroller. One copy was kept by the contractors and one copy by the individual to whom the bill was rendered.

In addition to that, the voucher will show the bank on which the check was drawn that paid the bill, and the number of the check.

I advanced that explanation to show that the State Architect did do everything that was in his personal power to safeguard the work, to see that the money was properly expended, and that the money went to the people entitled to receive the various amounts against their names.

Q. I think that covers the thing very thoroughly. The Chairman may want to ask you a question or two. A. I should like to make this statement in connection with the percentage contract which the Hudson Valley Construction Company had. They were the contractors. Their total commissions on the whole work amounted to not more than $30,000.

Q. And how much work did they do on that; how much was the total amount of the work on which that was a percentage? A. $567,000; and the $567,000 includes their percentage.

Q. So of that $567,000 their percentage under this percentage contract was something over $38,000? A. About $38,000.

Q. I think that covers everything —

The Chairman.— There is one question I wish to ask the architect.

By the Chairman:

Q. I believe, Mr. Sussdorff, you had general supervision of the work at the time? A. I did.

Q. You inspected all the material? A. I did. I inspected the building periodically. I had a resident inspector.

Q. You examined the material every time you went there? A. Yes, sir.

Q. As to its character? A. Yes, sir.

Q. Its quality? A. Yes, sir.

Q. You also examined the workmanship? A. I did.

Q. What was that? A. The workmanship was excellent.

Q. Did the same apply to the material? A. Yes, sir.

Q. Was there a real necessity for the so-called temporary structures? A. There was. The so-called administration building was designed, is designed to eventually become a school building.

Q. Who designed it? A. Mr. Franklin B. Ware, State Architect, and in the operation of getting this cell block for the occupation of prisoners, we took this building and converted it into a temporary cell block.

This building is eventually to be a fireproof building, but as we did not want to put the fireproof floors in at the present time — when I say the present time I mean the time we were closing up the operation to make it ready for the occupation of prisoners, we installed spruce floors, heavy spruce floors, without any finish on it at all but plaster board, until we could get the rest of the buildings going and have a complete plant there.

Q. How long have you been an architect or a technical man, about how many years? A. About 22 years.

Q. During that time how long have you been employed by the State? A. About 17 years.

Q. You have had supervision of most of the buildings during that time either in an inspector's capacity or an architect's capacity? A. Yes; in all of those capacities.

Q. You are familiar with the class of material? A. I am.

Q. The character of work? A. Yes, sir.

Q. What have you to say as to the charge made by Mr. Blake, that $500,000 of the $1,523,000 was graft? A. I characterize that as a falsehood.

Q. What have you to say to the statement in the third paragraph of Mr. Blake's report? (Reading):

"The bills for inferior work and for work not done at all passed through the hands of the State Architect, his representatives at the prison, the Comptroller and the Superintendent of Prisons."

A. There was not a bill passed through the State Architect's hands which was not checked; first, by the inspector on the job; second, it came to me, and from me I certified or O. K.'d it to the State Architect, and upon that he made his certificate.

When the percentage contract was instituted, the State Architect

formulated a set of resolutions to safeguard the interests of the State, so that he would be assured that the money would first go to the men to whom it was due; second, that there would be a public record of the expenditure of every penny on the job.

To that effect there were receipts taken from every man who worked on the job for his wages. There is a receipt from every man who received a dollar for material. There are three of those receipts in existence, one in the hands of the State Comptroller, one in the hands of the contractors and one in the hands of the person to whom the money went.

This voucher not only set forth what it was for, but it also indicated the bank on which the check was drawn and the number of the check.

Q. That shows the method of protection and safeguarding of the State against any graft, as has been stated. What have you to say as to this (reading):

"All of these persons, with the exception of the Comptroller, must have known that the bills were dishonest and should not have been paid. Yet they passed smoothly along and the money found its way into the pockets of the contractor."

What have you to say as to that? A. I will say it is true. The money found its way into the pockets of the contractor, because he earned the money and was entitled to it.

Q. You don't seem to understand my question. I first asked you what have you to say as to your certifying and the contractor being paid for work that wasn't done at all? A. It is untrue. There was not a bill passed through my hands for which the State did not receive the equivalent.

Q. What I want to get from you, you being in a supervisory capacity upon that work, to pass upon all materials and labor, was there any work — did the contractor receive any money for work that was not performed there? A. He did not.

Q. As an architect would you consider it was easy for most any ordinary citizen to walk in there and observe this great system of graft? A. It was not. That is absurd, for this reason. Anybody who would attempt to pass upon those buildings there in a day and a half or by a mere casual glance at them, would do a gross injustice to everybody who had any concern whatever in their construction.

To make an accurate estimate of the value of this work that is up there would take at least six weeks or two months for two or three men, to go back over that job and estimate its value properly.

Q. As an architect, do you believe that the State has a total loss on its hands by the selection and construction of the site at Great Meadow? A. It has not. To my mind, it has a very valuable asset.

The Chairman.— I think that is all.

Mr. Richards.— I have no other questions, Mr. Chairman.

The Witness.— Here is a question. It has been testified to and reported that these buildings are in a hollow, that enormous sums of money have been spent for grading, but I can make this explanation. The buildings are not in a hollow. The buildings are located on an upland slope. The country is rolling, and in making the complete plans for the lay-out of the whole prison we laid out a grading scheme, terracing the earth where it was high, filling in where it was low, and we fixed upon a certain elevation there as the proper elevation for the floor of the cell block. That therefore governs the floor levels of all the other buildings.

We took this matter up with Mr. Collins and told him this was the plan we would like to carry out, but that it would entail an enormous amount of grading. He said, "That is the best thing you can do. I haven't any work up there for the prisoners, and the prisoners can do that grading," and the prisoners are doing it too. It is not costing the State anything except for tools, wheel-barrows, picks and shovels.

Q. Has there been, to your knowledge, at any time $100,000 expended or paid to a contractor for the grading there? A. No, sir. There has not.

The Chairman.— Any other questions?

By Mr. Richards:

Q. Have you heard anything about a $30,000 road around there? A. Never projected. That is out of the air.

Q. Anything in it? A. Purely fictitious.

Q. Nothing of the kind ever projected or ever done? A. No plan was ever made or even considered.

The Chairman.— Any other questions?

Mr. Richards.— None.

The Chairman.— Then we will adjourn until to-morrow morning at half-past ten.

(Whereupon at 4:45 the Committee adjourned until 10:30 A. M. July 17, 1913.)

THE CAPITOL, ALBANY, N. Y.,

THURSDAY, *July* 17, 1913.

Pursuant to adjournment, the Committee met at 10.30 A. M.

PRESENT:

For the Senate:

Hon. JAMES J. FRAWLEY, Chairman.
Hon. SAMUEL J. RAMSPERGER.
Hon. FELIX J. SANNER.

For the Assembly:

Hon. LAVERNE P. BUTTS.
Hon. MYRON SMITH.

Appearances:

EUGENE LAMB RICHARDS, Esq., counsel for the Committee.
MATTHEW T. HORGAN, Esq., Secretary to the Committee.

Mr. Richards.— Shall we proceed, Mr. Chairman?

The Chairman.— Yes, sir.

Mr. Richards.— Mr. Hunter.

Wallace B. Hunter, recalled by the Committee, testified as follows:

Examination by Mr. Richards:

Q. Mr. Hunter, when you were on the stand on Tuesday you promised to produce certain papers, or a package of papers or letters, which you say this convict, Louis Dedrick, gave to you. Have you done so? A. I have; yes, sir.

Q. Are those the papers (counsel indicates papers in witness' hand)? A. Yes, sir.

(Witness passes package of papers to counsel.)

Q. This wooden model is the model of one of these inventions which he turned over to you (indicating)? A. Yes, sir.

Q. And about what date was it when he turned all these papers over to you? A. The first of May.

Q. And you have done nothing at all about them? A. No, sir; I have not.

Q. And the same is true of these drawings? Those are his drawings (indicating)? A. I never noticed the drawings until yesterday, when I took the stuff out of the envelope.

Q. You never, then, took the trouble to look at the drawings? A. No, sir; I did not.

Q. And did he speak to you about these patents? A. My conversation with him was very short, about one minute.

Q. And your conversation with him was about one minute? A. About one minute, except the morning that he came in the chapel to see me; he had sent word to the chaplain — dropped a note in the chaplain's box — that he would like to have an interview with the investigator, to talk with me. He said that he could furnish very valuable information regarding the prison; I said, all right; he said he would see some of the other convicts and have them drop letters to me; and he says if you will — before you get through here, he says, if you will, when you are going through the shops — I used to go through the shops almost every day — he says — I will give you the — a letter, he says; and when he handed me the letter, he handed me these things, just as you see them; and he says to me, if you can do anything with them, all right, and with that I passed on. He started to talk to me by the machine where he was standing, and on account of the noise of the machine I didn't hear what he said; and I said, step over to the door, so as to get away from the noise of the machine; that was all there was, and then I walked right on.

Q. And that was all the conversation you had with him? A. That is all the conversation; yes, sir.

Q. And you never looked at the papers that he handed to you? A. No, sir, I did not.

Q. Just took them and went away with them, and, as far as you

were concerned, did nothing about them? A. No, I did nothing about them, as I stated before.

Q. And then, when this convict who got out, whom he sent to speak to you about it, saw you, then you did nothing again about it? A. I was going away; I was on the boat when he came to see me.

Q. No, but I am asking you whether or not you did nothing about it after you saw him? A. No, sir, I did not; I have not had the time, as I said before, to do anything with it.

Q. And this letter to Governor Sulzer, which is in the papers, you kept that all the time and didn't even present that to the Governor? A. No, sir, I did not.

Q. Did you look into it to see whether there was anything in it that was material to the management and government of the Clinton prison? A. No, sir, I did not.

Q. When he handed you these papers didn't he tell you that there was in it a letter to the Governor? A. He said — yes, he did; he said there was a letter to the Governor.

Q. Well, did you understand that you were to put that letter to him in your pocket or give it to the Governor? A. Why, I didn't understand that I was to take orders from a convict as to what I was to do.

Q. No, but what did you think your duty was? A. My duty was to look into it and turn it over to the Governor when I got time to look into the matter.

Q. You were being paid to investigate this prison, were you not? A. I was working in the commissary department.

Q. You were paid to investigate the prison, particularly the commissary department? A. Yes, sir.

Q. And here was a communication from a convict in regard to the management of the prison, was it not? A. Yes, sir.

Q. And you put that in your pocket with these papers and paid no more attention to it; never looked at it and never turned it over to the Governor? A. No, sir; I did not.

Q. Did you think that was in accordance with your duty? A. I think I fufilled my duty.

Q. No, I am asking you whether that was proper for you to do and in accordance with what you thought to be your duty? A. I would have to have a wagon to truck all the stuff to the Governor that was handed to me.

Q. But this you took away with you? A. Yes.

Q. This was handed to you and you took it? A. Yes, sir; I know I did; if I didn't take it I wouldn't have it here.

Q. About the truck. You didn't take those other things away with you, did you? A. Some, I did.

Q. What were those things that you — that he handed to you? A. Some of them were complaints that when you run them down there was no truth in them, and all that sort of thing.

Q. Did you tell Mr. Blake, who was your superior in this investigation that you had this information or letter to the Governor with regard to the management of Clinton Prison? A. I did not; no, sir.

Mr. Richards.— Let me have Mr. Blake's report on Clinton Prison.

(Mr. Horgan passes paper to Mr. Richards.)

Q. When Mr. Blake made his report to the Governor, did he go over the matter with you at all? A. No, sir; he did not.

Q. You never gave him any special report on Clinton Prison of any kind, sort or description? A. Only what you see typewritten there.

Q. That is not a special report on Clinton Prison? A. No, there is no special report; no, sir.

Q. And did you make this report on Clinton Prison with regard to the cleanliness of the place (reading): "At Clinton prison I timed the companies as they marched in the mess hall from the time the first company came in until the last company was seated — just eighteen minutes — all of this time the food was on the table on cold plates. If your meal was on a cold plate for eighteen minutes do you think it would be fit to eat? But in some cases the food is fifteen minutes away from the fire before the person gets it, as I explained about the ovens. The dishes are not washed in a sanitary manner. They are dipped in one water, rinsed in another, placed on the tables in the mess hall and there they stand until the next meal," A. Yes, sir, that is my report.

Q. You handed that to Mr. Blake before he made his report on Clinton prison? A. I think I did.

Q. Well, did you? A. I am not positive, I don't know when Mr. Blake made his report; the report of Mr. Blake was made after I was out of the employ of Mr. Blake.

Q. When did you leave his employ? A. Some time in May.

Q. And when was this report handed to him? Have you got any idea at all (counsel indicates Exhibit No. 12)? A. I think along the latter part of May or the middle of May.

Q. And Mr. Blake's report is dated May 24th? A. I don't know the date of Mr. Blake's report, I didn't ——

Q. (Interrupting) I am simply asking you whether or not you gave a copy or the original of this report to Mr. Blake? A. I did, yes.

Q. When? A. I don't know just the date; I couldn't swear; it was some time in May.

Mr. Richards.— Does the Chairman care to see these papers?

The Chairman.— Yes, I would like to see them.

(Counsel passes to the Chairman of the Committee the papers produced by the witness.)

Mr. Richards.— I have no further questions, Mr. Chairman.

Examination by the Chairman:

Q. Mr. Hunter, did you not make any notes of what you found or what the condition was in the prison as you examined it? A. No, whatever notes I made I turned over to Mr. Blake.

Q. You turned them over to Mr. Blake? A. Yes.

Q. Well, now, did you put them in any form at all before you turned them over to Mr. Blake? A. No, sir, no form at all; I turned them over each night as I got through investigating a prison. If I got through at night, I would turn them over to Mr. Blake.

Q. Who was there when you made these investigations? A. Mr. Leeds, Mr. Bogard, Mr. Weller and Mr. Blake.

Q. Well, when you finished each day you had some data, didn't you? A. Sometimes, yes.

Q. What did you do with that? A. Turned it over to Mr. Leeds or Mr. Blake.

Q. Was there a stenographer there? A. Yes, sir.

Q. Did you read that data or those notes to him? A. No, sir.

Q. What was the nature of your report on Clinton prison upon the conditions generally and the work done? A. Why, I will read you my report which is in evidence.

Q. You don't give a date, you don't give a time. Just state in

a general way, without any information, you give a general superficial condition of the prison. Now, what did you make that up on? A. Why, for the benefit of Mr. Blake as to the condition of the prison, for which I was employed.

Q. Yes, but you have got embodied in your report all of the prisons. Now, what did you make that up from? A. Make that up from?

Q. Make that report up from? A. I made it up from my mind, going through the prison.

Q. Now, you want the Committee to understand that you carried in your mind the general conditions after making a thorough examination of every prison in this State, and in the month of May you made your report and handed it to Mr. Blake? A. Yes, sir.

Q. That is true? A. Yes, sir; that is true.

Q. What other prisoner did you talk to, any prisoner? A. What other prisoner did I go to?

Q. What other prisoner did you have a similar talk with as you did with this man Deidrick? A. Possibly fifty or sixty at Clinton prison, at different prisons.

Q. Did you with any other prisoner take anything from him? A. Not that I know of, no.

Q. Did you take anything from any prisoner which you were to sell for him? A. No, sir.

Q. Did you take a diamond pin from any prisoner? A. No, sir, I did not.

Q. Did you take a diamond ring from any prisoner? A. No, sir.

Q. (Continuing.) To sell, so that he might realize some little money? A. No, sir, I did not.

Q. Did you take a ticket from any prisoner? A. No, sir.

Q. Who employed you, Mr. Hunter? A. Mr. Blake.

Q. What did he employ you as? A. He employed me to inspect the commissary department of the prisons.

Q. Well, what was your duty to Mr. Blake? A. My duty to Mr. Blake was to go through and see and report on conditions to him as I found them in the prisons, in the commissary department, in the kitchens and so on, and where they could be improved and so forth, and to report the same to him.

Q. And anything that you found or acquired, was it your duty to report that to Mr. Blake? A. Yes, sir.

Q. Now, you say you only talked about a minute to this prisoner

when he revealed all this to you, is that true? A. My last interview, yes, about the invention.

Q. Let us have the first interview. How long did that consume? A. Why, possibly ten minutes.

Q. Ten minutes. You examined all the different patents he had in mind, didn't you? A. No, I did not until yesterday; I examined that stuff there that was in that envelope as I told you.

Q. Well, you didn't think it was the business of Mr. Blake to know anything that you — of any secret conversation that you may have held with a prisoner confined? A. I didn't hold any secret conversations with any of them.

Q. You never showed this to Mr. Blake, did you (indicating papers produced by witness)? A. No, sir, I did not.

Q. Is that a secret conversation with a prisoner? A. Well, no secret conversation; he handed it to me; it wasn't addressed to Mr. Blake.

Q. Now, Mr. Hunter, you don't want this Committee to believe that when you entered into an arrangement with a prisoner who was in imprisonment, that there wasn't some arrangement between you and him? A. There is no arrangement, Mr. Frawley, between Mr. Deidrick and me. If there had been any arrangement I would have communicated with him, wouldn't I? He just simply handed me this stuff as he handed me the letter and asked me to see what I could do for him with regard to it.

Q. And under no conditions? A. And on no conditions whatever. He says, "if you ever see fit to give me anything, all right."

Q. Didn't he ask you something about a release? A. No, sir.

Q. Well, then, do you think you were fair to Mr. Blake in not showing to him these papers? Do you think you were honest with him? A. I consider, yes, I was honest to Mr. Blake.

Q. Do you think you were honest with the prisoner? A. Yes, sir.

Q. You do? A. Yes, sir; I have tried to be as fair with every one as I could be.

Q. And you say you took from him all of his little worldly possessions in this bundle of letters and you never examined them? A. I never examined them until yesterday, no, sir.

Q. You admit that this convict sent a convict whose time had expired to meet you, and you met that convict, didn't you? A. The convict came to the boat as I was going away.

Q. I am asking you, did you meet that convict? A. I met him, yes, sir.

Q. What did that convict ask you? A. He asked me if I had done anything in regard to Deidrick's inventions, and I told him no, that I hadn't had the time.

Q. Did he ask you if you had seen the Governor? A. No, sir.

Q. He did not? A. No, sir.

Q. Did you, after that visit of this ex-convict, did you then look at these papers? A. No, sir; I went away that day and was gone for four weeks.

Q. You were at the prison as an investigator, weren't you? A. Yes, sir.

Q. Did you say to this prisoner, if you write a statement or a letter to the Governor I will submit it to him? A. No, sir, I did not.

Q. Well, now, let us see. This is quite a lengthy report, probably about eight pages. Did you ever look at the title of it? A. No, sir, I didn't look at it until yesterday; I didn't bother with it at all because I had so much stuff handed to me, sometimes fifteen pages they would have. You chase more balloons in those places without any practical result, was the reason that I didn't bother with a lot of that stuff that I got.

Q. Well, you didn't think you were chasing balloons when you took this man's invention, did you? A. I didn't do anything with the invention, Mr. Frawley. Now, that was in the envelope that he handed to me.

Q. I am asking you, did you think you were chasing balloons when you took this man's invention? A. I didn't think anything about it.

Q. You didn't think anything about it? A. Not at all.

Q. Well, why did you take it and put it in your home and keep it there? A. Because it was in with some other papers and stuff which I had.

Q. Other papers pertaining to the prison? A. Some letters and stuff that I had.

Q. I am asking you, pertaining to the prisons? A. Yes, sir.

Q. Did you bring those here? A. No, sir, I did not.

Q. Well, why? A. Because I didn't know that this Committee wanted it; if you want it, I will bring it.

Q. Did you show those other papers to Mr. Blake? A. Yes, sir; those papers were all laid on the bureau in the room.

Q. On Mr. Blake's bureau? A. No, sir; he handed me that the day I came away.

Q. Well, then, Mr. Blake tells an untruth when he states that the only report he received from you is the report that you submitted to this Committee, is that true? A. Well, that is the only report that he received from me on the prison; that report you have in evidence.

Q. Well, what were the papers that you gave to Mr. Blake that you put upon his bureau, what papers were they? A. Why, some sort of complaints; I don't remember just what they were.

Q. Was it the data that you gathered in your investigation? A. No, I didn't gather much data there, any more than investigating just through the ice boxes and examining the meats and looking over the general conditions of the kitchen and the storekeeper and the chef and like that, you know.

Q. But did he typewrite all that? A. Typewriting all this?

Q. That document held by Mr. Richards there. A. Who did the typewriting?

Q. Yes, who did the typewriting of that? A. The Troy Business College.

Q. Who in the Troy Business College? A. I don't know; there is a young lady in there who does work for me whenever I have any letters to write.

Q. What is her name, please? A. I don't know.

Q. Well, a young lady, whose name you don't know and who does work for you whenever you want work done? A. Yes, sir.

Q. Is she at the Troy Business College now? A. I believe she has been there about two years.

Q. You don't know her name? A. No, I do not.

Q. Did Mr. Weller do any typewriting for you? A. Not that I know of.

The Chairman.— Is Mr. Weller in the room?

(A gentleman in the room rises from his seat.)

The Chairman.— Won't you please take the stand for a moment?

Roy K. Weller, recalled by the Committee as a witness, testified as follows:

Examination by the Chairman:

Q. Mr. Weller, during any of these interviews did you at any time take any notes from Mr. Hunter yourself? A. I did not.

Q. None at all? A. None whatever.

Q. Do you know any stenographer who took any notes? A. I do not; no, sir.

Q. You have all the notes you took during the investigation, have you? A. Why, I have no note — there are two or three books that I haven't got; I have all the rest of them; I have the testimony of this Auburn prison, but I have no — the way those reports were dictated to me they were dictated direct on the machine, so I have no notes on them.

Q. Have you any of your notes left on Clinton prison? A. Clinton, yes, sir, I have all of them.

Q. You have all those notes? A. I have.

The Chairman.— That is all, Mr. Weller.

Mr. Richards.— Just one question, Mr. Chairman.

Examination by Mr. Richards:

Q. Mr. Weller, have you seen this report of Mr. Hunter's before or a copy of it (counsel passes Exhibit 12 to witness)? A. (After examining) Mr. Richards, I don't know whether this is a copy of it.

Q. Just read it through and see whether you haven't seen either that report or a copy of it before. A. (After reading) This is substantially a report like I have seen.

Q. Yes. Did you ever see but one report from Mr. Hunter? A. One report?

Q. Did you ever see but one paper? A. Only one typewritten report.

Q. That is what I mean, one typewritten report? A. Yes.

Q. And it was similar to that in a general way (counsel indicated Exhibit 12)? A. It was similar to that in a general way.

Q. You are not sure whether the exact language was the same or not? A. I am not, because there are circumstances connected with this report that I don't know.

Q. Yes, I want to ask you about that. What are the circumstances connected with the filing of that report? When was that report given to Mr. Blake? A. I don't remember just the date that it was given to him; it was given to him some time back, some time after Mr. Hunter had left the Committee.

Q. And after Mr. Blake had made up his report on Clinton prison? A. I believe the report had been printed and published.

Q. Now, what was the fact with regard to Mr. Hunter, any de-

mand that he made Mr. Blake when he gave him that report, after Mr. Blake's own report had been published? A. There were a number of demands; I don't know what you mean.

Q. Well, did he ask for some more money from Mr. Blake? A. Why, he thought that he was entitled to an extra week's pay for the report that he had written for Mr. Blake.

Q. That was the report, the only one that you had heard of (indicating Exhibit 12)? A. Well, substantially; I don't know whether this is the report that I saw or not.

Q. And did Mr. Blake give it to him, the hundred dollars? A. He did, under protest, with the understanding that if he made up his mind that he was not entitled to it that Mr. Hunter was to give it back to him.

Q. And then it was finally determined, wasn't it, it was finally returned, and isn't that the hundred dollars that was paid back to Mr. Blake, on which he produced the deposit slip for at the first hearing? A. It is.

Q. Let me have that (indicating Exhibit 12). So that this report or one similar to it was never handed in until Mr. Hunter was out of the employ of Mr. Blake, and he required a hundred dollars from Mr. Blake and then he gave it back? A. I believe the report had been printed and published before that report was turned in.

Q. Before — but he gave back the hundred dollars that he got for giving it to him? A. He did.

The Chairman.— All right, Mr. Weller.

(Witness excused.)

The Chairman.— Mr. Hunter.

Wallace B. Hunter, recalled by the Committee, testified as follows:

Examination by the Chairman:

Q. What kind of an envelope did Mr. Deidrick hand this letter in to you? A. The envelope was right there.

(Witness indicates counsel table.)

Q. Is this it? Louis Deidrick, 6496, Mr. Hunter (the Chairman indicates envelope). A. Yes, sir.

Q. On the outside it is addressed to Mr. Hunter? A. Yes, sir.

Q. L. Deidrick, 6496? A. Yes, sir.

Q. And the letter inside is addressed to His Excellency, Hon. William Sulzer? A. Yes, sir.

Q. Now, you say you never looked at this? A. No, sir.

Q. Well, I ask you again now. You were there investigating? Did you look at that letter or ever read it to anybody, to find out its contents (the Chairman passes letter to witness)? A. I read this letter yesterday.

Q. You read that yesterday? A. Yesterday morning, yes, sir.

Q. That is the first time? A. Yes, sir, the first time I read it.

The Chairman.— Well, Mr. Richards, I think that some of that letter ought to be a document spread on the record, because reading that letter it appears to me that this prisoner was requested to write conditions and occurrences within the prison, and those reports were not made to Mr. Blake by this witness.

Mr. Richards.— I think it should be spread upon the record.

The Chairman.— I think so.

Mr. Richards.— Have it marked, please.

The Chairman.— And I might say at this time I would like Mr. Weller to produce to the committee all of the notes you took in Clinton, Auburn and Great Meadow, and those you have in your physical possession, if you will do that.

Mr. Weller.— Now?

The Chairman.— Not now, but so that we can get them, all of the notes, within the next few days or the next week.

(To Mr. Richards) I think you ought to read that record, Mr. Richards, because some of it points to Mr. Hunter, that this man Deidrick was to furnish a report of that kind, and subsequently what took place, the report was not made to Mr. Blake, or at least Mr. Blake didn't put it in his report. Now, there is sad conditions in that letter. I don't think any investigator should accept from a prisoner a letter of that kind without reading it, and accept his worldly goods. I wish you would read that letter.

Mr. Richards.— Just mark that, please.

(The letter was received in evidence and marked Exhibit 27 of this date.) The said exhibit reads as follows:

"May 1st, 1913.

"To His Excellency,
"The Hon. William Sulzer,
"Governor, State of New York:

"Dear Sir:

"The following is what I have seen and can prove. I have seen men 'framed' up and knocked out by keepers, here are a few of the cases: One William Martin, 'framed up' by Keeper Wallace Bates, and while in a clinch with a trusty named Riley, Keeper Bates struck Martin on the head with a club having a steel tip six inches long at the end. Three days later Martin was sent to the insane asylum and has remained there since. On another occasion I have seen Keeper Bates strike a mere boy (one Isensmitt) with a club and punch him. Again I have seen him strike and punch a Jew named Harris. Again he punched and struck with a club Isidor Cohen for refusing to do some of his dirty work. On another occasion he called a colored man (Robinson) a 'black bastard' and 'son of a bitch' and raised his club to strike him, but Robinson warned him if he struck him he (Robinson) would kill him, and Keeper Bates did not strike, for I believe Bates, like all brutes, is a coward at heart. Robinson was put in the cooler for five days on that occasion.

"There is another keeper here of the same stripe. They are two of the largest keepers here. Both of them have been caught grafting. One of them has been suspended and reduced for stealing, can prove to you that both these keepers have been grafting here for years. I can bring forward men who have dealt with them both. I have seen these keepers wind sheets, towels, cloth and other crooked stuff around their bodies inside their coats before going to their lunch. I have been here for the past nine years, and if I had the ability to write a book about this prison I believe I would shock the public.

"As for Ex.-Supt. Scott and Warden Kaiser and their so-called reform, is a 'bluff.' It would do them well if they should reform themselves, to use a slang term, they are a 'false alarm,' show us one instance, if you can, where Mr. Scott has done anything toward reforming us, but I can point to you several instances where men making an effort to redeem themselves have been pushed backwards.

"Your Excellency, please note this. Five years ago was reading an article, 'How prisoners in some cases have made good and benefit to the public.' It stated how prisoners had invented different things in confinement and was successful when released and became good citizens. I thought I would imitate them, and if Mr. Scott or Mr. Kaiser ever possessed any idea of helping us reform, why do they take from us the few dollars we earn a year for the least petty rule we break. I am here over nine years and have not one cent to my credit. They have taken from me all I earned and informed me I still owe them twelve dollars ($12). I suppose I shall have to come back and do another 'bit' in order to settle up. What a mockery! Can you blame the men for being unruly and not caring to work when they know there is something wrong up above.

"Again, why do the men come back to prison? They discharge them with ten dollars ($10), a bum suit of clothes, a hat in which caught in the rain will turn into a rag, and in a majority of cases the men before facing anywhere when they reach the city spend the few dollars they have to help relieve their outfit.

"Another thing, a prisoner needing eye-glasses calls on the doctor and asks for a pair of glasses. The doctor informs him to see the optician and places his name on a list. When the optician calls at the prison he receives the list. He looks up what money the man has to his credit and will charge him accordingly. I have known of cases here where men have been put in the 'cooler' and their earnings taken from them for refusing to pay from three to five dollars for glasses we could buy in the five and ten cent store. I can tell you of instances when men were carried out of the dark cells more dead than alive, a short while ago a man was found dead in the dark cell with his head all batted in. They claim he did it himself. How a man could batter his head to such a pulp before becoming unconscious and keeper not ten feet away is remarkable. On another occasion I've seen a man framed up and so badly beaten that two days later he was found dead in his cell, not even taken up to the hospital.

"I myself have been struck on the head by Keeper Bates with a club.

"The principal keeper has his meals served from the hospital kitchen ever since he was appointed. The warden's brother, John Kaiser, a keeper at this prison, is living at the warden's house, thereby living at the State's expense, and in mercy's name what chance does a prisoner stand when reported on any charge made

by the warden's own brother? If a convict steals piece of soap (and we certainly do need a piece of soap sometimes, as we often go for weeks without it), he is thrown into the cooler for five to ten days. That is what they call reform. I have been in the cooler with the regular allowance of a half gill of water and a small piece of bread every twenty-four hours, and, believe me, there is not any thoughts in my mind of reform, but bitter thoughts of injustice in taking my earnings and thirty days of my time also with the cooler.

" Why, the men sneer at the chaplain as a grafter. They know money is donated to supply new books occasionally, but the men rarely see them. Where does the money go?

" The good books go out in town for the people outside the prison wall, and they pass all the junk around to the prisoners.

" It is the belief of the prisoners, who are in a position to learn things, that hundreds of bales of rags and waste have been sold and no account of it placed on the books. Even the swill is sold.

" The superintendent of industries lives in a house owned by the State. He pays ten dollars ($10) a month rent and it costs the State more than that for heating, lighting and supplying him coal and wood. It is rumored he gets supplies from the prison farm.

" We bathe like cattle, all bunched under one pipe, probably squeezed and rubbing up against some one with a disease of the skin and scabious.

" I am willing to face all these people I have accused of clubbing and grafting, although I fear I shall catch hell after this investigation is over. The majority of the men here are willing to help you drive the rascals out, as they look upon you as humane and as Abraham Lincoln was, one of nature's gentlemen, and I am sure our prayers will be given as much attention up above for your success in the good work you are doing in behalf of the commonwealth as those going up from all the common people in the outside world.

" And believe me, sincerely yours,

" LOUIS DIEDRICK,

" 6496 Clinton Prison,

" Dannemora, N. Y."

By the Chairman:

Q. Do you wish now for the Committee to believe that you didn't read that letter? A. Why, yes, sir, I am telling you the truth, Mr. Frawley.

Q. You never read that letter? A. No, sir, I did not.

Q. And you were investigating conditions to report to Mr. Blake honestly what you found? A. I was through investigating at Clinton prison at that time; when he handed it to me I was just through, and I had some other notes I wanted to look over to turn over to Mr. Leeds and the other members of the Committee, and that was all.

Q. This was the last day you were there that you got this letter? A. Yes, sir.

Q. How many days were there between your first and last visit that you talked with the prisoner? A. Oh, five or six, I guess.

Q. Five or six? And when you were leaving the prison to make your report you thought it was your duty to retain that paper for your own personal use? A. No, I have never taken it for my personal use.

Q. Who did you propose to give these papers to? A. I didn't propose to give them to any one.

Q. Then you were going to keep them yourself? A. They are no use to me.

Q. They are no use to you? A. No, sir.

Q. Why didn't you return them to the prisoner? A. I don't know of any particular reason why I didn't return them, because I didn't look into them; I didn't bother with them, that is the size of it.

Q. Now, you told us here the other day that this prisoner had been negotiating with some manufacturer, didn't you? A. Yes.

Q. Then you thought it was of some consequence to take these patents? A. No, I didn't think it was of any consequence.

Q. You say you didn't. Why did you take all the documents of this prisoner and then put them away? A. The fact that he came there, Mr. Frawley, and handed them to me.

Q. Why didn't you read that letter? A. I read it yesterday morning; it was in that envelope.

The Chairman.— Just a moment. Get the page of his testimony here last week.

Mr. Richards.— What was that last question?

(The stenographer thereupon read the last question and answer to counsel.)

The Chairman.— Will you get that testimony, please?

Mr. Richards.— This is his testimony, at page 179. (Reading): "Q. Did he give you a letter for Governor Sulzer, as he says he did? A. He handed me some papers there. Q. Was there a letter for Governor Sulzer among them? A. I don't know. Q. Haven't you looked at them? A. No, I have not. They are tied up just as they were handed to me. Q. You mean to say that you took those tools and papers away, the wrench and tools, and have not looked at them since? A. I have been too busy. Q. What have you been so busy at since this occurrence so that you did not attend to it? A. I have been away." That is his testimony.

The Chairman.— I want you to get that portion of his testimony where he swore this man had sold the wrench, or sold the rights to the wrench.

Mr. Richards.— Yes, I see what you mean.

(Counsel examines minutes.)

Mr. Richards.— Page 176. (Reading): "Q. Did you take any wrench? A. I have a model of a wrench that he had. He told me that he had sold it to a concern somewhere out west. Q. He told you he had sold this wrench? A. Yes, he told me he had sold it. Q. When did you get this wrench and model from him? A. Oh, I think the day I came away from Clinton prison. Q. When was that, Mr. Hunter? A. Oh, it is — well, the last day I was there — I do not know just the exact date. Q. Well, how long? A. Well, the latter part of April. Q. He had not sold it then? A. He told me he had sold it. Q. If he had not sold it — if he told you he had sold it, why did you take the wrench? A. He even handed me a letter. He handed me a letter from the firm that he had sold it to. Q. What did you do with that letter? A. I think I have the letter. Q. Would you produce that letter to this Committee? A. Why, certainly, and the model."

By the Chairman:

Q. Now, Mr. Hunter, do you desire to change that testimony in any way? A. Why, no, Senator. The fact is this: That that letter was in with the other letter.

Q. Well, that isn't what I want to know. If this man told you he sold this wrench, what was your object in taking it from him? A. Why, Senator, there was no particular object in taking it. He just came up and handed it to me with the letter, and with a lot of other stuff at the time and I stuck it in my pocket.

Q. That doesn't answer my question. You admitted here on the stand that you had a conversation with him, for example, on the 25th of May, or April? A. Yes.

Q. And had a second conversation on the first day of May? A. Yes.

Q. Now, you say your first conversation was for ten minutes? A. Yes, sir.

Q. What was the purpose of that conversation? A. Why, he dropped a note in the chaplain's box that he wanted to see me, and the chaplain came to me, and I said all right; I was interviewing some of the men at different times in the chaplain's office, and he had some — and he came in and told me some stories about the prison and particularly about this one man, Hefferman, that he claims was murdered, and he said he would get some data on that and hand it to me from some of the other people that he knew in the prison.

Q. What did you do with that data? A. What?

Q. What did you do with that data that he got for you? A. The data — there is the data that I got, that you have in your possession now, that I got from him.

Q. He promised to get this data for you, did he? A. Why, he said that he would see the convicts. There is the data that you see here.

Q. Then you advised him that you would like to see that data in reference to the Hefferman murder? A. I said, any information ——

Q. (Interrupting) Now, do you want the Committee to believe that after this man went out and got this data for you that you never read that letter? A. Yes, sir.

Q. You do? A. Yes, sir.

Q. Then, why did you ask him to get this information? What was the purpose of your asking this man to get this information for you if you never read the information after he furnished it to you? A. Because I had sufficient information that I had turned over to Mr. Blake in reference to the Hefferman business, and I thought this letter referred to the Hefferman business; that is all there was to it.

Q. Did you turn this letter over to Mr. Blake? A. No, sir.

Q. Well, then, who gave you the information of the killing of Hefferman, who gathered that among the convicts for you? A. There was no one gathered it; I gathered it myself; there were

different ones told me and I handed the statements over to Mr. Blake.

Q. Didn't you state a moment ago —— A. (Interrupting) Or Mr. Leeds.

Q. Didn't you state a moment ago that when you talked with this prisoner he told you he could get you the information with reference to the killing of Hefferman, and you told him to go among the prisoners and get that data for you. Didn't you say that a moment ago? A. I said whatever data you can give me, I says, hand it in to me; he said, all right; that was our conversation.

Q. Did you hand that data to Mr. Blake that Deidrick gave you? A. No, this matter here, because I had enough other evidence on that particular line, and I supposed this was pertaining to it, the reason it was in that envelope and I didn't bother with it.

Q. Oh, you didn't bother with it? A. No, because I had turned over sufficient evidence, I thought, for him to make his report so far as the Hefferman business was concerned.

Q. Did you turn over data of that kind to Mr. Blake? A. Yes, sir.

The Chairman.— Mr. Richards, you find that data in Mr. Blake's report?

Mr. Richards.— There is a reference to the Hefferman matter, and there was some testimony taken about it. That is in the testimony.

Q. Now, Mr. Hunter, when the convict told you that he had sold all of the rights to this patent did you read the letter he handed you? A. No, I did not.

Q. I mean the letter which he had received from Lout & French? A. That I read yesterday?

Q. That is the first time you read it? A. That is the first time I read that letter.

Q. Did you find this: That he had not sold —— A. (Interrupting) The portion of the letter that he had not sold?

Q. This is the first knowledge you had yesterday? A. Yes, he told me that he had sold that particular wrench, but I understand ——

Q. (Interrupting) But you doubted it, didn't you? A. No, I didn't doubt his word. He had a number of communications, as I understand it, from these French people.

Q. Yes, but he told you he had sold it, didn't he? A. Yes, he told me that he had.

Q. On the face of that you took the drawings, the model. What were you going to do with it? A. Why, I didn't intend to do anything with it.

Q. Well, why did you take it? A. Why, if a man comes up to you and you are investigating a prison and hands you an envelope ——

Q. (Interrupting) No, that is not the answer. Why did you take it if you knew he had sold it? A. I didn't know the contents of that envelope when he handed it to me.

Q. I am not asking you that at all, about the contents of the envelope. I am asking you why did you take these drawings and the model from the prisoner when you knew he had sold them? A. When a man hands you an envelope and you don't know the contents of it, and it is sealed up, how do you know what it contains?

Q. Well, now, Mr. Hunter, you have sworn here that you interviewed the prisoner Deitrick. He talked with you about this patent; you told us that you were going to sell this patent and model to people on the outside. Now, is that true or is it untrue? A. No, sir, it is untrue.

Q. Then, when you swore to that you swore to a lie? A. No, I didn't swear to any lie. I said I would see what I could do with it.

The Chairman.— Mr. Richards, just read what he said.

Q. I asked you if you desired to change your testimony of the other day and you said no.

The Chairman.— Now, read what he said with reference to this.

(Mr. Richards examines minutes.)

Mr. Richards.— This seems to be the only testimony that I can discover that bears on that particular point. (Reading): "Q. Do you mean for this Committee to understand that without any further conversation between yourself and Deitrick he turned over to you the models and wrenches? A. Yes. Q. That he had made in prison, without any agreement or any talk of what was to be the result? A. Wait until I tell you what he said to me. He said, if you can do anything with it, if you can get a dollar out of it or anything to help me, I will be glad to have you do it. Q. Did he say to you to come back to his box where he had it hid and "don't let the screw know anything about it?" A. Yes. Q. Did he say that to you? A. Yes. Q. And you were investigating prisons? A. I walked back to the machine where he was working. Q. And you deceived the keeper? A. No, I told the keeper. Q. You told the keeper? A. No, I went right to the desk and told the keeper

that I wanted to see Mr. Deitrick. Q. You told the keeper that you had received these models and papers from Deitrick? A. No, sir, I did not. Q. You didn't do that? A. No, sir." That is on pages 181 and 182.

The Chairman.— Let me read this on page 176.

Mr. Richards.— That was read before, Mr. Chairman.

The Chairman.— Was it?

Mr. Richards.— Yes.

By the Chairman:

Q. You said this, Mr. Hunter: I asked you if he had not sold it; if he told you he had sold it, why did you take the wrench? "A. He even handed me a letter. He handed me a letter from the firm that he had sold it to." Now, is that so? A. Yes, he handed me a letter at that time, and I handed it back to him.

Q. Well, did you look at it? A. No, I didn't read it; I told him I didn't have time, that I was too busy.

Q. Well, how did you know that he sold it? A. I didn't know that he sold it, only what he told me; all I know is what Mr. Deitrick said to me.

Q. You don't want us to believe now that he handed you a letter and you examined it and then handed it back to him without reading it? A. I didn't examine the letter. He had the letter and he offered me the letter, and I says, I am not interested in it; I didn't have the time to bother with it.

Q. You said you were not interested in it at all? A. I said I haven't the time to bother with it; I am not interested in it.

Q. (Reading.) " He even handed me a letter. He handed me a letter from the firm that he had sold it to." Now, what did you mean when you said that, " He handed me a letter from the firm that he had sold it to." A. He handed me a letter and he says, here is the firm that I sold it to, and I said, I am not interested in it, and handed him back the letter.

Q. Why did you make that statement. I asked you if he had not sold — if he had told you he had sold it, why did you take the wrench? (Reading.) "A. He even handed me a letter. He handed me a letter from the firm that he had sold it to." " Q. What did you do with that letter? A. I think I have the letter." A. Well, I thought I had the letter; I am not sure whether I have the letter or handed it back.

Q. Well, now, did you keep the letter at that time or did you give it back? A. I gave it back to him, yes.

Q. Then you wish to correct that? A. Yes, I wish to correct that. I handed that letter back, now that I remember.

Q. Then this letter was not a part of this bundle of papers? A. No, it was not.

Q. It was not? A. The only letter that I know anything about is that one you have there.

Q. Just a moment now. You correct yourself. Now, you want to say that the letter he handed you after you talked with him of the value of this patent — A. (Interrupting.) Yes.

Q. (Continuing.) You returned it to him then. A. Yes, I handed it right back to him.

Q. Then it was not in this bundle of papers? A. No, I thought there was a letter contained in the bundle of papers, as you see, such as it is.

Q. Is this the letter we have here now that you returned to him? A. Oh, no, that is not the one.

Q. That isn't the one? A. No.

Q. What is the date of that letter, please?

(The Chairman here examined the letter referred to.)

Q. Mr. Hunter, will you produce the other data that you have from the other prisoners and other prisons and that you took from the prisoner? A. Yes, sir, I will do that for you.

Q. I mean the data which went to make up this report that you made to Mr. Blake? A. Yes, sir. Then, when do you want it here, Mr. Frawley?

The Chairman.— Mr. Richards, I don't desire to ask any further questions of Mr. Hunter at this time, but I want Mr. Hunter to get us that in case you will have ——

The Witness.— (Interrupting) Yes, sir.

The Chairman.— I want Mr. Hunter to keep us informed in case he leaves the city, so that we may call him when we are ready within the next week or ten days.

The Witness.— Now, I have an engagement in New York on Monday.

The Chairman.— That is all right.

The Witness.— If I know when your Committee is going to meet, I will be here, Mr. Frawley.

The Chairman.— Where is your address now, Mr. Hunter?

The Witness.— My address is general delivery here at Albany. I am staying down the Hudson river here about four miles below here.

The Chairman.— Have you moved from the ——

The Witness.—(Interrupting) No, I haven't moved.

Mr. Richards.— You are down at Parr's Island, aren't you?

The Witness.— Yes, I am down at Parr's Island.

The Chairman.— Will you be there for some time?

The Witness.— I will be there for a couple of weeks.

The Chairman.— You will be there for a couple of weeks?

The Witness.— Yes.

The Chairman.— That is all. Do you want to ask any questions, Mr. Richards?

Mr. Richards.— No, I don't think so. Now, Mr. Chairman, we have no further evidence on this line here this morning. There may be some matters that we will desire to take up this afternoon. I suggest that the Committee take an adjournment, say until half-past two.

The Chairman.— Will you be ready then to proceed?

Mr. Richards.— Yes.

The Chairman.— What time?

Mr. Richards.— Half-past two.

The Chairman.— I wish you would try and start at two.

Mr. Richards.— Well, make it two. I have a witness under subpoena who is out of town and I expect him here at two o'clock. He may be delayed on the train. I said half-past two to make sure that we would all be here.

The Chairman.— Well, I wish you would make it so that you could arrange it for two o'clock.

Mr. Richards.— I want to have the Chairman make it whatever he thinks is desirable.

The Chairman.— Make it two o'clock.

Mr. Richards.— Two o'clock.

The Chairman.— Will you be ready to go on then?

Mr. Richards.— I think so, unless this witness fails to appear.

The Chairman.— All right. The Committee will adjourn until two o'clock.

The Committee thereupon, at 12.30 o'clock p. m., took a recess until 2 o'clock p. m.

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